

United States
Circuit Court of Appeals
For the Ninth Circuit.

YEE CHUNG,

Appellant,

vs.

THE UNITED STATES OF AMERICA,

Appellees.

Transcript of Record.

Upon Appeal from the United States District Court for
the Southern District of California,
Southern Division.

Filed

JUL 27 1916

F. D. Monckton,
Clerk.

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur.]

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For Appellees:

ALBERT SCHOONOVER, Esq., United States Attorney, Los Angeles, California; and

CLYDE R. MOODY, Esq., Assistant United States Attorney, Los Angeles, California.

[4*]

Citation on Appeal.

UNITED STATES OF AMERICA,—ss.

The President of the United States, to The United States of America, and to the Hon. Albert Schoonover, United States Attorney for the Southern District of California, Greeting:

You are hereby cited and admonished to be and appear at a United States Circuit Court of Appeals for the Ninth Circuit, to be holden at the city of San Francisco, in the State of California, within thirty days from the date hereof, pursuant to an order allowing an appeal, of record in the clerk's office of the United States District Court for the Southern District of California, Southern Division, wherein Yee Chung is appellant, and you are appellee, to show cause, if any there be, why the decree rendered against the said appellant, as in the

*Page-number appearing at foot of page of original certified Record.

said order allowing appeal mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

WITNESS, the Honorable BENJAMIN F. BLEDSOE, United States District Judge for the Southern District of California, this 22d day of March, A. D. 1916.

BLEDSOE,

United States District Judge.

Service of the within citation hereby admitted this 22d day of March, 1916.

ALBERT SCHOONOVER,

United States Attorney.

M. Esq.

[Endorsed]: No. 911—Criminal. United States District Court for the Southern District of California. Yee Chung, Appellant, vs. The United States of America, Appellee. Citation on Appeal. Filed Mar. 22, 1916, at — min. past 11 o'clock A. M. Wm. M. Van Dyke, Clerk. Murray C. White, Deputy. [5]

In the District Court of the United States, in and for the Southern District of California, Southern Division.

No. 911—CRIM.

THE UNITED STATES OF AMERICA,

Plaintiffs,

vs.

YEE CHUNG,

Defendant. [6]

Affidavit of Complaint.

UNITED STATES OF AMERICA.

Southern District of California,—ss.

BE IT REMEMBERED, that on this 15th day of July, in the year of our Lord one thousand nine hundred and fourteen before me, Chas. N. Williams, a United States Commissioner duly appointed by the District Court of the United States of America for the Southern District of California, to take acknowledgments of bail and affidavits, and also to take depositions of witnesses in civil causes depending in the courts of the United States, etc., pursuant to the Acts of Congress in that behalf, personally appeared W. A. Brazie, Chinese Inspector, who, being duly sworn, according to law, deposes and says that Yee Chong heretofore, to wit: On the 14th day of July, in the year of our Lord one thousand nine hundred and fourteen, was found in the County of Los Angeles within the Southern Division of the Southern District of California and is now within said Division and District; that he, the said Yee Chong was, at the time of being so found as aforesaid, and is now, a Chinese person and a person of Chinese descent and a Chinese Laborer, and not lawfully entitled to be or remain in the United States.

Contrary to the form of the Statutes of the United States in such case made and provided, and against the peace and dignity of the said United States.

W. A. BRAZIE.

Sworn to and subscribed, this 15th day of July, A. D. 1914, before me.

[Seal]

CHAS. N. WILLIAMS,

U. S. Commissioner. [7]

I, Chas. N. Williams, the Commissioner before whom the within complaint was verified, do hereby certify the foregoing to be a full, true and correct copy of the original affidavit of complaint, filed July 15, 1914, as the same remains of record in my office at Los Angeles, Southern District of California.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal, at Los Angeles, Southern District of California, this 15th day of July, A. D. 1914.

[Seal] CHAS. N. WILLIAMS,
United States Commissioner, Southern District of
California.

[Endorsed]: No. 467. United States District Court, Southern District of California. The United States of America vs. Yee Chong. Certified Copy of Affidavit of Complaint. Albert Schoonover, Esq., United States Attorney. Filed the 15th day of July, 1914. Chas. N. Williams, United States Commissioner. [8]

Warrant of Arrest.

UNITED STATES OF AMERICA.

Southern District of California,—ss.

The President of the United States of America to
the Marshal of the United States for the
(Seal) Southern District of California, and to
His Deputies, or Any or Either of Them,
Greeting:

WHEREAS, complaint on oath hath been made to me charging that Yee Chong on or about the 14th day of July, in the year of our Lord one thousand

nine hundred and fourteen, and within the jurisdiction of the United States, and within the jurisdiction of the Honorable, the District Court of the United States, in and for the Southern District of California, was found in the County of Los Angeles, within the Southern Division of the Southern District of California, and is now within said Division and District; that he, the said Yee Chong was, at the time of being so found as aforesaid, and is now, a Chinese person and a person of Chinese descent and a Chinese laborer, and not lawfully entitled to be or remain in the United States.

NOW, THEREFORE, you are hereby commanded, in the name of the President of the United States of America, to apprehend the said Yee Chong and bring his body forthwith before me, a United States Commissioner appointed by the District Court of the United States, for the Southern District of California, at my office, in the City of Los Angeles, that he may then and there be dealt with according to law for the said offense.

GIVEN UNDER MY HAND AND SEAL, this 15th day of July in the year of our Lord one thousand nine hundred and fourteen and of our Independence the one hundred and thirty-ninth. [9]

[Seal]

CHAS. N. WILLIAMS,

United States Commissioner for the Southern District of California.

Marshal's Criminal Docket No. 5731.

[Endorsed]: No. 467. U. S. District Court, Southern District of California. The United States of America vs. Yee Chong. Warrant to Apprehend.

Albert Schoonover, Esq., U. S. Attorney. Filed this 14th day of July, A. D. 1914. Chas. N. Williams, U. S. Commissioner.

In obedience to the within warrant, I have the body of Yee Chong before C. N. Williams, Esq., U. S. Commissioner, this 15th day of July, 1914.

C. T. WALTON,
U. S. Marshal.
By A. C. Sittel,
Deputy. [10]

UNITED STATES OF AMERICA.

Southern District of California,
Southern Division.

No. 467.

Before the Honorable CHAS. N. WILLIAMS,
United States Commissioner.

THE UNITED STATES OF AMERICA,
Plaintiff,

vs.

YEE CHUNG,

Defendant.

**Notice of Appeal from Order of United States
Commissioner.**

The above-named Yee Chung, conceiving himself aggrieved by the order of deportation entered on the 9th day of January, 1915, in the above-entitled proceeding, by the Honorable Chas. N. Williams, United States Commissioner aforesaid, which order of said commissioner does direct and provide that said de-

defendant shall be deported to China, on the ground of his being now unlawfully within the United States, does hereby appeal from said order to the judge of the United States District Court for the Southern District of California, Southern Division, and to said court;

And said defendant does hereby give notice to said plaintiff herein and to said United States Commissioner of such appeal, and that the same is now and hereby taken upon question of both law and fact, and said defendant further prays that a transcript of the records and proceedings, papers and exhibits, upon which the said order was made, duly authenticated, may be sent to the said District Judge of the United States, of the said Southern District of California, Southern Division, in due course of procedure.

Dated this 9th day of January, 1915.

YEE CHUNG,

Defendant and Appellant.

ISIDORE B. DOCKWEILER,

As Attorney for Said Defendant and Appellant. [11]

Service of the foregoing notice of appeal is hereby admitted this 9th day of January, 1915.

CHAS. N. WILLIAMS,

United States Commissioner for Said District.

ALBERT SCHOONOVER,

United States Attorney.

HARRY R. ARCHBALD,

Asst. U. S. Atty.

[Endorsed]: Original. No. 911-Crim. United States of America, Southern District of California, Southern Division. The United States of America,

Plaintiff, vs. Yee Chung, Defendant. Notice of Appeal from Order of United States Commissioner. Filed Jan. 9, 1915. Wm. M. Van Dyke, Clerk. By R. S. Zimmerman, Deputy Clerk. Isidore B. Dockweiler, Suite 536, Douglas Bldg. Office Tel. Main 8756, Home 1320, Los Angeles, Cal., Attorney for Defendant. [12]

At a stated term, to wit, the January Term, A. D. 1916, of the District Court of the United States of America, in and for the Southern District of California, Southern Division, held at the courtroom thereof, in the city of Los Angeles, on Wednesday, the nineteenth day of January, in the year of our Lord one thousand nine hundred and sixteen. Present: The Honorable BENJAMIN F. BLEDSOE, District Judge.

No. 911-CRIM. S. D.

THE UNITED STATES OF AMERICA,
Plaintiffs,
vs.
YEE CHUNG,
Defendant.

Order Affirming Order of Deportation.

This cause having heretofore been submitted to the court for its consideration and decision on the pleadings and proofs after trial *de novo* before the court on defendant's appeal from the order of a U. S. Commissioner for deportation of defendant; and the Court having duly considered the same, and being fully advised in the premises, it is ordered that the

order of deportation of the U. S. Commissioner be, and the same hereby is affirmed, a memorandum opinion to be hereafter filed by the court herein. [13]

*In the United States District Court, Within and for
the Southern District of California, Southern
Division.*

No. 911-CRIM.

UNITED STATES OF AMERICA

vs.

YEE CHUNG.

Memorandum Opinion.

This is an appeal from an order of deportation, made by the Commissioner. I have gone over, with some particularity and care, the transcript of the evidence taken herein, and have also made careful examination of all of the exhibits.

Petitioner claims that he is a native-born citizen of the United States, even though he be of Chinese descent, and that for that reason he is entitled to a reversal of the order of deportation herein. His claim in this behalf is that he was born in San Francisco about 1880, and was the son of one Yee Kin Sing, in which event, of course, he would be entitled to remain in the United States. There is considerable evidence adduced by Chinese witnesses to the effect that the aforesaid Yee Kin Sing had a son born to him in San Francisco, at the time alleged by defendant herein, and some evidence of some Chinese witnesses to the effect that the defendant, Yee Chung, is that son.

The whole question in the case, however, centers about a determination of the claim of the defendants that he is the individual named Yee Chung, who was adjudged to be rightfully in the United States, by a Commissioner of the United States District Court, of the District in Vermont, in the month of January, 1898, and this issue is the determinative one, because [14] if it can be believed from the evidence that he is the individual mentioned in that proceeding, then it is impossible to discredit his claim that he is the son of Yee Kin Sing.

If, however, his asserted claim of having been adjudged rightfully in the United States, in Vermont, as above referred to, be without foundation in the mind of the Court, then his claim of being native-born falls to the ground, because the claimant has been completely discredited as a witness, and the order of deportation should be affirmed.

I had occasion, in an oral opinion delivered in this Court, late in January of last year, in the case of *United States vs. Jee Jan*, to indicate my views as to the amount of evidence that ought to be produced in behalf of a person of Chinese descent, in one of these deportation cases, in order that the requirement of the statute that the Court should be satisfied, might be had; and I see no reason to depart from the views there announced. The burden, I believe, is placed by the statute upon the defendant, and he must by the evidence adduced in his behalf "satisfy" the Court, i. e., produce moral certainty or conviction. (C. C. P. Sec. 1835) of the truthfulness of his claim. (186 U. S. 193.)

In this case, after careful consideration of the evidence as above stated, I cannot refrain from entertaining a want of satisfaction, with respect to the truthfulness of the defendant's claim, and therefore am constrained to affirm the judgment of the commissioner.

Time will not suffice to permit me to indicate the reasons for my conclusions, save with severest brevity. It is apparent, however, in the first place, that if any credence is to be given at all to the testimony of the witness Joliffe, who produced for the inspection of the Court, the records of [15] the Canadian Pacific Railway, an inspection and investigation of all of the Chinese passengers who came over on the boat on which defendant claims he sailed from Hong Kong, was had and their names taken; defendant's name, Yee Chung, appears twice upon the list, but neither of the ages given would make the name applicable to him.

There are some inconsistencies in his testimony in this behalf also; he testified in the first place that his name was asked by the Chinese interpreter at Vancouver, and afterwards denied it; he testified on two or three different occasions that he purchased a ticket from Hong Kong through to Boston, and that he showed his ticket to Boston at Vancouver; he afterwards recanted that, and claimed that his ticket was purchased only to Montreal, and that a ticket from there to Boston was furnished him by his father. His description of Commissioner Johnson does not tally with, and in fact is emphatically opposed to, the facts as proved by the United

States Inspector. Upon being shown a photograph of some individual, he at first said it was not his father, and then afterward upon the trial here stated that "It looked like him,—some resemblance to his father, but not exactly." Considering the personal acquaintance that he had with his father, as shown by the evidence, it is difficult for me to understand how he could fail to recognize the photograph if it was his father, and why he should have testified differently with respect to it, whether it was his father or not.

When arrested by officer Brazie, he claimed to have some sort of a "native paper," which was in the possession of his clansmen in San Francisco,—by this, I am led to believe some paper or certificate showing the fact that he was native-born. [16]

Not only did he fail to adduce such "native paper" at either of the hearings had herein, but he failed to make mention to Officer Brazie of the paper which he now claims he used as a means of going back to China in 1909. He, in fact, on that occasion displayed such an aversion to answer questions respecting his right to remain in the United States, as sorely to challenge his good faith.

These are some of the more marked inconsistencies as I view them, in the testimony and conduct of the defendant, and they lead me to entertain such doubt as to the bona fides of his claim that he was before Commissioner Johnson in Vermont in 1898, as to require me, in my judgment, to uphold the findings of the Commissioner herein.

For these reasons, the judgment of the Commis-

sioner is affirmed, and the petitioner ordered deported.

Dated, Los Angeles, California. January 19, 1916.

BLEDSON,
Judge.

[Endorsed]: No. 911—Crim. United States District Court, Southern District of California, Southern Division. United States of America vs. Yee Chung. Memorandum Opinion. Filed Jan. 26, 1916, at 20 min. past 11 o'clock A. M. Wm. M. Van Dyke, Clerk. Murray C. White, Deputy. [17]

*In the United States District Court Within and for
the Southern District of California, Southern
Division.*

Hon. BENJAMIN F. BLEDSON, Judge.

No. 911—CRIMINAL.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

YEE CHUNG,

Defendant.

Reporter's Transcript.

Vol. I. (In Pencil.) Filed Mar. 23, 1916. Wm. M. Van Dyke, Clerk. By Chas. N. Williams, Deputy Clerk. John P. Doyle, Official Reporter, Department 5, Superior Court, Los Angeles, California.

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*In the United States District Court Within and for
the Southern District of California, Southern
Division.*

No. 911—CRIMINAL.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

YEE CHUNG,

Defendant.

APPEARANCES:

ALBERT SCHOONOVER and CLYDE R. MOODY,
Esquires, Attorneys for Plaintiff.

I. B. DOCKWEILER and JOHN L. McNAB, Es-
quires, Attorneys for Defendant.

REPORTER'S TRANSCRIPT. [20]

Proceedings Had April 2, 1915.

April 2, 10 o'clock A. M.

The COURT.—UNITED STATES vs. YEE
CHUNG.

Mr. SCHOONOVER.—Ready.

Mr. DOCKWEILER.—Ready.

Mr. SCHOONOVER.—If the Court please, it may be that we can save some time by arriving at an undersanding. Counsel suggested that there were some official records that they desire. I think they said they wanted certified copies of them. Now, any records we have here are originals from the San Francisco office, and cannot be certified by this local office, but the originals are here before the Court, and upon any issue we are not willing that any part of the record or particular part that counsel for defendants may designate shall go in the record, but that all of it shall upon any issue. For instance, what they want to do is to show the attitude of the Government towards the accused, how many times he has been passed by them, and so forth. We are perfectly willing that that should be shown, together with the complete record which discloses that in May last the Department was sustained by the Secretary in holding that this man had not shown his nativity, and the finding was affirmed. Now we will stipulate the facts or we may read from the record so far as desired on either side, but we want to make a complete showing and not a partial one; and counsel makes the suggestion that for some reason—in view, I take it, of that record and the situation that it puts this defendant in with reference to the Government—that some different rule as to the burden of proof will prevail, and that we might settle before we start into the trial of the case. If for any possible reason the burden is upon

the Government, if we know it now, we will assume it. [21]

The COURT.—I am going to assume that the burden is upon the appellant unless something is shown to the contrary. I know nothing of any other rule.

Mr. SCHOONOVER.—To facilitate the matter, will counsel stipulate that the defendant here, Yee Chung, was at the time of his arrest a laborer and was found without a certificate of residence, nativity, or any other certificate?

Mr. McNAB.—I regret that we cannot stipulate to that, your Honor. We are willing to stipulate that he is a person of Chinese descent, and that his parents were not born within the United States. I do not think we can go further than that.

Mr SCHOONOVER.—The only reason I suggest it is that the record shows such stipulation was made before the Commissioner by Mr. Dockweiler.

Mr. DOCKWEILER.—Not in that form.

Mr. SCHOONOVER.—Well, whatever it may be. It was substantially in that form.

Mr. McNAB.—At any rate, we do not renew it here.

Mr. SCHOONOVER.—The stipulation before the Commissioner was—

Mr. McNAB.—In view of the fact that we do not renew it I do not see the necessity for reading it.

Mr. SCHOONOVER.—Very well, except that there is a question as to what it was. Mr. Dockweiler has suggested that it is not what I stated.

The COURT.—When they do not care to make it

now it is immaterial what stipulation they made below.

Mr. SCHOONOVER.—Very well. You may take the stand, Mr. Brazie. [22]

Testimony of W. A. Brazie, for Plaintiff.

W. A. BRAZIE, a witness called on behalf of the plaintiff, having been first duly sworn, testified as follows:

Direct Examination.

(By Mr. SCHOONOVER.)

Q. Please state your name. A. W. A. Brazie.

Q. And what is your business?

A. Chinese inspector in the United States Immigration Service at Los Angeles, California.

Q. How long have you held that position?

A. Eleven years next October.

Q. Do you know the defendant here?

A. I do.

Q. Yee Chung? A. I do.

Q. Did you take him into custody upon the charge that is now pending against him? A. I did.

Q. Who else, if anyone, was with you at that time?

A. Mr. J. R. Garrity, Clerk of the Immigration Service at Los Angeles.

Q. Where did you find Yee Chung at that time?

A. At River Station of the Southern Pacific Railroad Company in Los Angeles.

Q. Upon what date? Have you a memorandum here that will refresh your recollection?

A. The statement shows. The date has slipped my memory.

(Testimony of W. A. Brazie.)

Q. Is that the statement you refer to (handing paper to the witness)? [23] A. Yes, sir.

Q. What is the date? A. July 14, 1914.

Q. At what hour? A. 4:30 P. M.

Q. Where was the statement taken?

A. In the Immigration office at Los Angeles on the Fifth floor of the Federal Building.

Q. How long before you first took the defendant in custody?

A. About thirty minutes, I should say.

Q. Who, if anyone, was with him at River Station when you took him in custody?

A. I couldn't state that anyone was.

Q. Any other Chinese present?

A. No other Chinese present.

Q. Where was he, in the station building?

A. In the station building, in the waiting-room.

Q. About 4 o'clock?

A. About 4 o'clock, yes, sir. The statement was taken at 4:30. If you will allow me I will explain that prior to taking the statement—

Q. Well, that is unnecessary. How you happened to know he was there is not competent, or is not material at least. Now, state what conversation you had with the defendant at that time with reference to his presence at the point where you found him, as to whether or not he had in his possession any certificate of residence or other certificate entitling him to remain in the United States.

Mr. McNAB.—That is objected to as incompetent, irrelevant and immaterial. [24]

(Testimony of W. A. Brazie.)

The COURT.—The objection is overruled.

Mr. McNAB.—Exception.

Mr. DOCKWEILER.—Could we stipulate at this point, your Honor, that exceptions are deemed to be noted by each side without expressly taking them?

The COURT.—Any exception taken because of rulings made upon objections made by either party may be so considered. I do not care to have it understood that all exceptions are implied, because it may not be called to the Court's attention. As to objections made they may be deemed to be taken to adverse rulings.

A. When I approached him I asked him if he had a certificate of residence or other paper, and he said no.

Q. What did he say as to his vocation?

A. He said he was a laundryman and was in Los Angeles looking for work.

Q. Did he at that time or later produce any certificate? A. Not to the Immigration Service.

Mr. SCHOONOVER.—That is all.

Cross-examination.

(By Mr. McNAB.)

Q. Did you ask him where he was born?

A. I did not at the River Station; I did in the office.

Q. You didn't ask him at the River Station, you say?

A. I did not at the River Station, but did in the office.

(Testimony of W. A. Brazie.)

Q. Where did he say he was born?

A. San Francisco, California. [25]

Q. He claimed to be a native-born citizen of the United States, did he? A. He did.

Mr. McNAB.—That is all.

Mr. SCHOONOVER.—That is all. The Government rests, your Honor, upon the theory that we have in this case as in cases of this character, under the practice heretofore followed and understood to be correct, made out a *prima facie* case as to the defendant, that he was a laborer and found in the country without a certificate.

Mr. McNAB.—If your Honor please, we want to be, in this matter, absolutely fair with the Court and the other side, and I will state my position briefly. It is laid down in the Chinese Exclusion Act in section 3 that where a person is charged with being unlawfully in the country the burden of proof is upon the alien to establish the fact that he is lawfully within the country. It has, however, very recently been decided, not only by the Circuit Court of Appeals, 7th Circuit, but also by the Court of Appeals of the District of Columbia, by the full Court, in a unanimous opinion, that that has absolutely no application in a case where a person claims to be a native-born citizen of the United States, notwithstanding he is of Chinese descent, and in that case the Government holds the burden of proof and must establish affirmatively that he is not a person born within the United States and is not entitled to remain within the United States. However, in this

matter, if your Honor please, we are perfectly willing that that question shall be determined by the Court when the case has been concluded, and if there be no objection I can present briefly to the Court the authorities upon that question in order that your Honor might have them in mind while listening to the [26] evidence. It may be that your Honor may be in a frame of mind after listening to the evidence which is to be produced throughout the day that a decision can be rendered upon this question without the necessity of getting other witnesses. It may be that your Honor will wish to have all of the witnesses heard. And with that in view, if there be no objection, I can briefly present the authorities on the question.

The COURT.—There is no particular reason for doing it now. I do not see how a person, by the character of claim he makes, could change a rule of law or evidence. If he says he is a citizen, the burden of proof changes, whether he is or not? Now, that does not appeal to me in logic.

Mr. McNAB.—I am simply telling your Honor what the decisions say.

The COURT.—I know, but I am telling you what I think about it.

Mr. DOCKWEILER.—We would like, if the Court will permit us, at this time to read the decisions in the various cases.

The COURT.—Very well, proceed.

Mr. McNAB.—Does your Honor wish to hear them at this time?

The COURT.—Yes, I will be very glad to.

Mr. McNAB.—I will read the decision in the case of Chin Wah vs. U. S., No. 2699, in the Court of Appeals for the District of Columbia, decided January 4, 1915, (Reading—“This is an appeal from the judgment of the Supreme Court of the District of Columbia . . . when he was about thirteen years old.”) Now, there follows a great amount of matter in this decision which has relation to the admissibility of certain records and which does not bear upon this question—and I can see, of course, that the decision comes within the scope of your Honor’s suggestion a few minutes ago that there was affirmative [27] proof that he has been born in this country and that it was not raised upon the question as to his mere claim. (Reading further—“It is true that section 3 of the act of 1892 provided . . . of his case.”) Signed by Shepard, Chief Justice, and concurred in by the remaining members of the court.

The COURT.—The net result of it would be to put a premium upon perjury by making it to the benefit of the person who claims citizenship, whether he is a citizen or not, and changing the rule of evidence.

Mr. SCHOONOVER.—It is not perjury, your Honor. It is a flagrant disregard of an oath, which the Supreme Court of the United States recognizes as being a Chinese characteristic.

The COURT.—Well, call it by its right name—perjury. Let me see that Chinese Exclusion Act.

Mr. McNAB.—The decision to which I wish to call your attention, if your Honor please, goes more elab-

orately into the reason for the decision and draws a very marked distinction between an alien for whose regulation or expulsion or deportation the Chinese Exclusion Act was passed and a person who claims the protection of the Constitution by virtue of a claimed nativity. It is written by Grosseup, Circuit Judge, and is for the Eastern Division of Illinois. It is 147 Fed. 697, *Moi Suey vs. U. S.* (Reading—"Moi Suey, the appellant, was arrested February 7, 1904, . . . as well as the name of his uncle." . . . "But the Government claims that under section 3 . . . having been filed in a late case.")

In that case they did determine, however, that if there was an unfair hearing in any respect it might be granted.

(Reading—"These cases proceed upon . . . with instructions to discharge the appellant.") [28]

The COURT.—Let me see that case. Why do they order the judgment reversed? Because the evidence was not sufficient, apparently. The very question in the case is whether or not he is a citizen. When he is a citizen, of course, he is entitled to the protection of the Constitution and those remarks are applicable. But the simple fact that he says he is a citizen does not entitle him to the protection of the Constitution when charged with a civil crime; surely not. They say "There is no testimony, for instance, throwing doubt upon the fact . . . as the proven records show." Now, that is the decision in that case.

Mr. McNAB.—The discussion now proceeding was

(Testimony of Yee Chung.)

based upon the suggestion of the District Attorney that he would like to have us discuss the law. We did not suggest that we discuss this question; we said we were ready to proceed.

The COURT.—Well, I am not inclined to hold that upon a mere claim of citizenship the burden established by this act thereby changes.

Mr. McNAB.—The United States Bureau of Immigration in a circular letter by the Department, which the other side could produce, announces that doctrine.

The COURT.—Then it is sufficient for me to say that I am not bound by any such circular letter.

Mr. McNAB.—I think your Honor is quite correct.

The COURT.—Proceed, gentlemen, and we will now hear the evidence.

(Chan Kiu Sing sworn as interpreter.) [29]

Testimony of Yee Chung, in His Own Behalf.

YEE CHUNG, defendant herein, having been duly sworn, testified, through the Interpreter, as follows:

Direct Examination.

(By Mr. McNAB.)

Q. What is your name? A. Yee Chung.

Q. How do you spell it?

The INTERPRETER.—Yee Chong or Chung.

Q. How do you spell it?

The INTERPRETER.—Y-e-e C-h- either u-n-g or o-n-g.

Mr. McNAB.—I suppose that will be no dispute between the Government and ourselves, as has been

(Testimony of Yee Chung.)

frequently noted in the authorities, that the only way of spelling Chinese names in English is by sound,—phonetically.

The COURT.—Yes, and you will even have some difficulty in spelling that that way.

Mr. SCHOONOVER.—This defendant's name is Yee Chong.

Mr. McNAB.—I don't think so. It has been spelled half a dozen different ways, I think.

Mr. SCHOONOVER.—How does the witness spell his name?

The COURT.—Ask him how he spells his name, Mr. Interpreter.

The INTERPRETER. — (After interrogating witness.) Well, sometimes he pronounces it as “ung” and sometimes “ong.”

Mr. SCHOONOVER.—Ask him whether he told—

The COURT.—Well, wait now. This is not your witness.

Q. (By Mr. McNAB.) When were you born?

A. I was born in K. S. 6; on the first month, eighth day.

Mr. McNAB.—Can we agree on what date that is?

Mr. SCHOONOVER.—Just state what it is, Mr. Brazie.

Mr. BRAZIE.—February 17, 1880.

Q. (By Mr. McNAB.) Where were you born?

A. In San Francisco. [30]

Q. At what place in San Francisco?

A. At a building at 728 Sacramento Street.

Q. Who was your father? A. Yee Kim Sing.

(Testimony of Yee Chung.)

Q. How do you spell it?

The INTERPRETER.—Y-e-e K-i-m S-i-n-g.

Mr. McNAB.—I presume it will be admitted by counsel on the other side that that, like other names, varies in spelling from time to time.

Mr. SCHOONOVER.—I presume so.

Q. (By Mr. McNAB.) What was your mother's name? A. Wong Shee.

Q. Are your father and mother still alive?

A. Yes, sir.

Q. Where do they live? A. In China.

Q. When did they go to China?

A. They went to China in K. S. 7.

The INTERPRETER.—That would be in 1881.

Q. (By Mr. McNAB.) What was your father's business in San Francisco?

A. General merchandise store with a firm named Quong Woh Chung.

Q. How do you spell it?

The INTERPRETER.—Q-u-o-n-g W-o-h C-h-o-n-g or ung.

Q. At what place in San Francisco did the party named Quong Woh Chung do business?

A. In Sacramento Street.

Q. At what number? A. 728.

Q. What kind of business did the firm of Quong Woh Chung engage in? [31]

A. Chinese general merchandise.

Q. What position did your father occupy in that store, if you know? A. He was a bookkeeper.

Q. After your father went to China did he return

(Testimony of Yee Chung.)

to the United States?

A. Yes; he returned to the United States the next year.

Q. When your father and mother went to China in 1881 as you have testified, did they take you with them?

A. Yes, sir; three of us—my parents and myself.

Q. How long did your father remain in China after going back? A. Only a few months.

Q. Did your mother ever return to the United States? A. No, never.

Q. How long did you remain in China after going back at that time?

A. I went to China when I was only two years old and returned at the age of eighteen.

Q. How long after you were born did you leave for China? What was the time of the year, if you remember?

A. I was born on the 8th day of the first month, K. S. 6, 1880, and we went to China—it was in the latter part of the following year; I think it was in either the seventh or eighth month.

Q. How long did you remain in China after you went back with your mother and father?

A. Nearly sixteen years; because I went while I was only two years old and came back at the age of eighteen.

Q. In what year did you return to the United States?

A. K. S. 23, in the latter part of the year, 1897.

(Testimony of Yee Chung.)

Q. When you came back from China to the United States do you remember what city or port you landed at in the United States?

A. I came back by way of Vancouver.

Q. Vancouver, British Columbia? A. Yes, sir.

Q. Then where did you go from there?

A. From there we went to Montreal.

Q. Montreal, Canada?

A. And then by way of Burlington.

Q. What State? A. Vermont.

Q. Burlington, Vermont. What happened to you at Burlington, Vermont?

A. I was detained there and then tried by a court.

Q. Do you remember what court it was?

A. No.

Q. Had you ever seen such a court before?

A. No. That is the first court I was in.

Q. Do you remember the name of the Judge or Commissioner that tried your case?

A. No, I can't recall. He was an old man with a long beard.

Q. At that time what did you tell him your name was? A. Yes, sir. I told him I was Yee Chung.

Q. Did he ask you where you were born?

A. Yes, sir.

Q. What did you tell him?

A. I told him I was born in San Francisco.

Q. Did he ask you the year and who your parents were? A. Yes, sir. [33]

Q. After you were tried before this Judge or Commissioner at Burlington, Vermont, did you get any papers?

(Testimony of Yee Chung.)

A. Yes, sir; there was a paper; not very large.

Q. Where is that paper now?

A. Why, that paper was lost through a shipwreck while I went to China. I boarded a steamer at Seattle, Washington, in the year K. S. 33—the steamship “Dakota.” I left there on the 6th day of January, K. S. 23, on the S. S. “Dakota.”

Mr. SCHOONOVER.—What date would that be?

Mr. BRAZIE.—The 6th, by—what count is he giving, Chinese or English count?

The INTERPRETER.—He said K. S. 33, first month, sixth day, when he sailed from Seattle on the S. S. “Dakota.”

Mr. BRAZIE.—That would be the 18th day of February, 1907.

The COURT.—What is this date?

Mr. McNAB.—That is when he subsequently went to China from Seattle; and my purpose now is to prove the destruction of the copy of this record. I will come back to that trip, however.

Q. You say that paper that *that* you got from the Commissioner was lost in shipwreck. What did the Commissioner do with you at Burlington, Vermont?

A. Well, I was declared as a native and discharged.

Q. Did you ever at a later time get another copy of that paper from the Commissioner in Burlington, Vermont? A. Yes, sir, after the trial.

Q. Do you remember about what time it was that you got that paper? A. A few days after the trial.

Q. Now, after you were discharged, as you say, by

(Testimony of Yee Chung.)

the Commissioner at Burlington, Vermont, where did you go?

A. From there I went to Boston. [34]

Q. Why did you go to Boston?

A. Because my father was there engaged in business.

Q. Now, your father, when he left San Francisco to go to China, you say was engaged at work with the Quong Woh Chung Company in San Francisco. When did he go to Boston, if you know?

A. Well, he sold his business there in San Francisco in the year K. S. 22 and then he went to Boston.

Mr. BRAZIE.—1896 is K. S. 22.

Q. (Mr. McNAB.) What business did he go into in Boston?

A. The same kind, Chinese general merchandise.

Mr. McNAB.—Go back to that date again, Mr. Interpreter, and see if we have that right; that is, the time that he understands his father sold out in San Francisco. Well, that is right, K. S. 22.

Q. What business did your father go into in Boston? A. Chinese general merchandise.

Q. Do you know what firm?

A. The Sam Sing store.

The COURT.—I didn't understand the witness to say when his father returned from China after his departure for China in 1881.

Mr. McNAB.—He only remained about a year there, your Honor.

Q. You say you went to Boston. Did you go to the place where your father was?

(Testimony of Yee Chung.)

A. Yes; my father went with me from Burlington to Boston.

Q. Now, at Burlington where you had this trial, was your father there as a witness? A. Yes, sir.

Q. Did you know whether or not he was sworn as a witness there before the Commissioner? [35]

A. Yes, sir.

Q. Did you hear him testify?

A. I didn't hear it, because he was examined first.

Q. After you got to Boston with your father, what did you do?

A. Well, I remained with him only a few days, a short time, and then he sent me over to Carnegie, Pennsylvania.

Q. Who did he send you with to Carnegie?

A. Well, he wrote to his friend over there first, and then he bought me a ticket and sent me over there.

Q. How long did you stay at Carnegie, Pennsylvania? A. I stayed there about ten years.

Q. At the end of the ten years what did you do?

A. Then went to China.

Q. During the ten years that you were in Carnegie, Pennsylvania, what were you engaged in doing most of the time? A. Laundryman.

Q. Who were you in business with?

A. Yee Lee.

Q. Who was the owner of the laundry?

A. Yee Lee was the owner.

Q. You stayed with him ten years?

A. Yes, sir.

Q. At the end of ten years you say you went to

(Testimony of Yee Chung.)

China. Where did you leave the United States to go to China? A. By the port of Seattle.

Q. Before you went on board the steamer at the port of Seattle was any investigation held by the United States Immigration officials there as to who you were and whether you had a right to go?

A. There was only a paper signed by an official; there was no investigation made. [36]

Mr. McNAB.—I inadvertently used the words “right to go.” The United States always concedes the right to go. I meant the right to remain.

The COURT.—No doubt of it.

Q. (By Mr. McNAB.) You say you received a paper there?

A. There was on official came down to the boat or steamer and got my paper and signed it.

Q. I show you this paper and ask you whether or not you had that paper and presented it to the officials at Seattle before you went to China on the trip you are now talking about (handing paper to witness).

A. Yes. That is where that official signed his name here.

Q. In what year did you go to China by way of Seattle on this trip?

A. That ship sailed on the 6th day of the first month, K. S. 33.

The INTERPRETER.—Somewhere in February, 1907.

Q. Before you left Carnegie, Pennsylvania, did you get any copies of papers or papers to take with you?

(Testimony of Yee Chung.)

A. That is the paper that was sent to Vermont, to the Judge in Vermont, to sign.

Q. The paper which I hand you now?

A. Yes, sir.

Q. Or which I hold in my hand?

A. That is, before I left there for China I sent to the Judge in Vermont for that paper.

Mr. SCHOONOVER.—The same paper he presented himself. Isn't that the idea?

Mr. DOCKWEILER.—With the addition of the affidavits annexed thereto,—the affidavit of Rev. E. D. Donahue, Presbyterian minister, and also Mr. Jones, the banker at Carnegie. [37]

Mr. SCHOONOVER.—Did he leave all of that at Seattle with the inspector?

Mr. DOCKWEILER.—No; he presented the affidavit.

The COURT.—With a certified copy.

Mr. McNAB.—Well, presented the affidavit, which will include this.

Q. I ask you again to look at this paper which is marked by J. V. Stewart, the Chinese inspector, and ask you whether or not that is your photograph (handing paper).

A. That is my photograph.

Q. Did you present that photograph to the officials at Seattle before you went to China? A. Yes, sir.

Mr. McNAB.—We offer this in evidence; and in conjunction with it we offer at the same time the certified copy of all the proceedings in the investigation had at Seattle prior to his departure and evidencing

(Testimony of Yee Chung.)

his right to return, which includes a certified copy of all the proceedings before United States Commissioner Johnson at Burlington, Vermont. These are regularly certified by the United States Commissioner of Immigration at the office at Seattle, Washington.

Mr. SCHOONOVER.—Those were procured by the Government for this purpose. We have no objection to the introduction of them.

The COURT.—They will be admitted.

Mr. SCHOONOVER.—That is, the certified documents were, the other was not,

Mr. McNAB.—Yes.

Q. Are you the same Yee Chung that is named in these papers (showing papers to witness)?

A. Yes, sir.

Q. Are you the same Yee Chung that appeared before the United States Commissioner at Burlington, and named in these papers? [38]

A. Yes, sir.

Mr. McNAB.—Mr. Brazie, will you kindly give to me again the Chinese date for the hearing at Burlington?

Mr. BRAZIE.—Well, I don't know what that is.

Mr. McNAB.—Well, I will ask him.

Q. Do you remember about the date that you were before the United States Commissioner at Burlington, Vermont? A. No, I don't remember.

Q. How long was it after you landed at Vancouver, British Columbia,—about how long?

A. About six weeks from the time when I arrived at Vancouver.

(Testimony of Yee Chung.)

Q. You say you are the same Yee Chung that is mentioned in all these papers? A. Yes, sir.

Q. When you left the port of Seattle going to China in 1907 did you have any papers with you after you went on the boat?

A. One paper I left with the custom-house officers and then one I took along.

Mr. McNAB.—He says custom-house officers. Does he mean the immigration officers?

The INTERPRETER.—Yes.

Mr. McNAB.—Or do the custom-house officers perform the Immigration Service there?

Q. Well, ask him again, does he mean the customs officers or immigration officers as Seattle.

A. Well, I don't know. Simply I was called to leave one paper with the officials there, and then I took one along.

Mr. McNAB.—There seems to be a general tendency to refer to them as custom-house officials.

Q. What paper did you take with you when you went aboard the ship?

A. That is the paper (indicating paper in the hands of counsel). [39]

Q. What was the name of the boat?

A. The "Dakota."

Q. What became of the "Dakota" on that trip?

A. Well, the boat got as far as Japan and ran into a rock and was wrecked there.

Q. Did you lose any of your effects?

A. Yes, sir; I lost all.

Q. Did you have any trunk or baggage or anything

(Testimony of Yee Chung.)

which was lost?

A. Yes, baggage, a trunk, only that paper was in my pocket.

Q. Did you have any paper in your trunk or baggage?

A. Yes, sir, that paper was given to me by the Judge, that was in the trunk.

Q. Was that lost? A. Yes, with the trunk.

Q. How long did you remain in China after going on this trip from Seattle?

A. I left China to return to the United States on the 9th month, 1909.

Mr. McNAB.—I think, if your Honor please, before proceeding, in order to state the matter chronologically to your Honor I had better read this record in evidence.

The COURT.—It may be considered as read. There is no necessity for reading it, I think.

Mr. McNAB.—Very well, then I would like to state the substance of it, your Honor, or one or two portions of it.

Mr. DOCKWEILER.—Here is the original; that is a copy there.

Mr. SCHOONOVER.—They speak for themselves. The effect of them is a matter of argument.

Mr. McNAB.—Yes; I should like to have the first record introduced and marked on the back "Transcript of Record" to be marked as Defendant's Exhibit "A," being the same number of exhibit which was used before the Commissioner, if your Honor please,— [40]

(Testimony of Yee Chung.)

The COURT.—All right.

Mr. SCHOONOVER.—May we further identify that as being the paper the witness says he had in his pocket and which was not lost on the boat “Dakota”?

Mr. McNAB.—Well, let us see if that is true.

Q. Did you or did you not have that paper with you on the steamer “Dakota” when you went to China in 1907 (handing paper to witness)?

A. Yes, I had that paper with me.

Mr. McNAB.—Now, that will be Defendant’s Exhibit “A.” And the transcript of the record as it was prepared by the United States Commissioner of Immigration at the port of Seattle may be marked as Defendant’s Exhibit “B,” being the same number that was used before the Commissioner. I would just like to read these portions of it. The first portion consists of an affidavit of Yee Chung, signed by himself, and I just had occasion to note last night that his signature is the same as that attached to the affidavit which was filed yesterday, I think. That is, I mean the handwriting is the same.

Mr. SCHOONOVER.—How is the “Chung” spelled?

Mr. McNAB.—Y-e-e C-h-u-n-g. But the handwriting I would like to have your Honor compare. It states that Yee Chung is a resident of ——— County, State of Pennsylvania, and that he was born in the city and county of San Francisco, 728 Sacramento Street, K. S. 6, the first month and 8th day, and that his father was Yee Kim Sing and his mother Wong Shee. (Reading from record.)

(Testimony of Yee Chung.)

Mr. DOCKWEILER.—I might say at this time, may it please your Honor, that when we introduced the original record before the Comimssioner on the first trial the Government questioned the [41] authenticity of our exhibit "A," and by consent of both parties the clerk of this court transmitted that original document, exhibit "A," to the court in Vermont for verification, and the clerk of this court, following the transmission, received from the clerk of the court at Vermont certain letters, which letters, of course, confirmed the fact of authenticity, and also called attention to the fact that that original there, or the carbon copy of that original, is still on file in the record, and calls attention to the variations in the typewriting, in the type of the typewriting, apparent in the carbon copy as well as in the original. In other words, the clerk of the court there said that a copy of this original is to be found in the records of Judge Johnson. That transmission was made by stipulation of counsel, and the communications were official, and I would like to have those letters, Mr. Clerk.

The CLERK.—By the Commissioner, Mr. Williams?

Mr. DOCKWEILER.—Yes; I would like to have a copy of the letter Mr. Williams transmitted and the original replies of the clerk of the court. As I remember, there were two letters that the clerk of the court there wrote to Mr. Williams.

Mr. McNAB.—Until they are received, if your Honor please, I will proceed.

(Testimony of Yee Chung.)

The COURT.—Yes, proceed.

Q. (By Mr. McNAB.) On arriving in China after your departure from Seattle where did you go?

A. Well, I landed in Hong Kong, and then went back to the village where my home was.

Q. What was that village?

A. The Chow Duey village in Sun Ning district, China.

Q. How long did you remain in China before returning again to the United States? [42]

A. I went to China in K. S. 23; I left there to return to the United States in the ninth month Sun Him I; about October, 1909.

Q. While you were in China what did you do?

A. I haven't done anything.

Mr. McNAB.—There seems to be some dispute as to its importance but—

Q. Did you get married? A. I married before.

Q. When was it you got married?

A. I was married K. S. 22.

Mr. BRAZIE.—That would be in 1896.

Q. (By Mr. McNAB.) Then you got married before you came to the United States to Burlington, Vermont? A. Yes, sir.

Q. How long after you were married was it that you left for the United States on the trip that brought you to Burlington, Vermont?

A. About a year, practically, or a little over.

Q. Did you have any children by your wife at that time before you left for the United States?

A. Yes, sir, one boy.

(Testimony of Yee Chung.)

Q. Before you left for the United States the first time?

A. Well, one was born before I left, and then one after I came back to the United States.

Q. Do you remember when the first boy was born?

A. He was born in K. S. 23; the sixth month, 6th day.

Mr. BRAZIE.—That is July 5, 1897.

Q. (By Mr. McNAB.) And you say the second boy was born after you left for the United States?

A. Yes, sir.

Q. Do you know the date of his birth?

A. He was born the 25th day of the 5th month, the following year; K. S. 24. [43]

The INTERPRETER.—That would be 1898, about July, I guess. The 25th day of the first month, or the first part of July, I suppose.

Q. (By Mr. McNAB.) When you returned from China after leaving Seattle at what port did you re-enter the United States?

A. When I returned I landed at the port of San Francisco.

Q. Did you have any papers with you at the time you came into the port of San Francisco?

A. Yes, sir.

Q. What paper did you have with you?

A. The same kind of paper, only a copy of it, that is all.

Q. When did you land at the port of San Francisco?

A. I arrived at the port of San Francisco the first

(Testimony of Yee Chung.)

day of the tenth month by the steamship "Manchuria."

Mr. BRAZIE.—That would be November 12, 1909.

Q. (By Mr. McNAB.) When you refer to the same kind of paper, do you mean that you had a paper like this that I am now showing you, marked Defendant's Exhibit "A" (exhibiting paper to witness)? A. Yes, the same kind of paper.

Q. After your return to the United States at the port of San Francisco in 1909 where did you go?

A. Well, I went to Homestead.

Q. In what State? A. Pennsylvania.

Q. Did you afterwards bring in your two sons into the United States?

A. Yes. They came in in 1913.

Q. Which son did you bring in first?

A. No, I sent a paper for him to come.

Q. And which son came first? [44]

A. The oldest one.

Q. What is his name? A. Yee Woh?

Q. What is the name of the younger son?

A. Yee Lai.

Q. Through what port did they enter the United States, do you know? A. San Francisco.

Q. I show you this certificate of the Commissioner at San Francisco and ask you whether or not that is a picture of your son Yee Woh (handing picture).

A. Yes, the oldest son, Yee Woh.

Q. Is that the certificate (handing paper)?

A. Yes, sir.

Q. I show you the picture of this boy and ask you

(Testimony of Yee Chung.)

whether or not that is your younger son (handing picture). A. Yes, the second one, Yee Lai.

Q. Is that the certificate he received on land?

A. Yes, sir.

Q. These are the certificates and the photographs, are they? A. Yes, sir.

Mr. McNAB.—I offer these in evidence, if your Honor please, and ask that the one relating to Yee Woh be marked as Defendant's Exhibit "C" and that of Yee Lai as Defendant's Exhibit "D."

The COURT.—Very well; it is so ordered. They will be considered as read.

Mr. McNAB.—Yes, except I would like to call your Honor's attention to the fact that the certificate under seal of Samuel W. Brooks, officer in charge, set forth that he was admitted as the son of a native from the "Siberia" on June 2, and the certificate in regard to Yee Lai that he was admitted on the steamship "China" November 10, 1913, as the son of a native; and accompanying these is the statement showing Yee Woh son of a native, July 1, 1913. The alleged father claims to have returned to the United States from China via Vancouver, B. C., by steamship "Empress of China" in K. S. 11 (reads from exhibit).

[45]

The COURT.—They will be considered as read.

Mr. McNAB.—I would like to ask your Honor to read the certificate of the examiner on the last page in which he speaks of the apparent candor, truthfulness, and so on, of this applicant and his investigation of all the facts. The clerk has very kindly pre-

(Testimony of Yee Chung.)

sented to me the correspondence, if your Honor please, to which Mr. Dockweiler alluded, and which I will present to your Honor in a moment. I intended to present at that same time the report of the immigration officials at San Francisco on the landing of this witness in 1909, which I would like to have marked as Defendant's Exhibit "E"; and I might state to your Honor that this report, which is quite exhaustive, goes into the efficiency of the record before Commissioner Johnson—

The COURT.—(Examining documents.) Just let me inquire. I see some memoranda here that do not appear to be signed by anybody. What relevancy do they have? "American citizenship of Yee Chung" Who is responsible for that?

Mr. McNAB.—It is one of the notes in among my papers; I don't know whether it is Mr. Dockweiler's or my own, but it is no part of the record, and I ask that it be torn from the record. It is simply making up a chronological statement of the various events.

The COURT.—You do not claim it has any relevancy or competency?

Mr. McNAB.—None at all, your Honor.

The COURT.—And this memorandum purporting to be signed by A. W. Long, what is the purpose of that?

Mr. McNAB.—I will ask the other side to present the original of that. That is Inspector Long's report on the landing of Yee Woh. It will not be disputed by the other side that that is a copy of it anyway, your Honor.

(Testimony of Yee Chung.)

The COURT.—All right. [46]

Mr. McNAB.—And it will likewise not be disputed by the other side that the copy now handed you is a copy of Inspector Mayo's report attached to the other papers.

Mr. SCHOONOVER.—I do not know what opportunity we have had to compare these. Have these copies been in our possession at any time?

Mr. McNAB.—I don't know. If they are not correct, I will consent that they be stricken from the record and the originals substituted.

Mr. SCHOONOVER.—All right.

Mr. McNAB.—That is offered, among other things, for the purpose of showing the care with which the record of Commissioner Johnson was inspected, the fact that it was demonstrated there that the only ground on which he could have been discharged by Commissioner Johnson at that place would have been the ground of his nativity, otherwise he would have been investigated at Richmond, Vermont, and very rarely in those times did they attach any photograph.

Mr. DOCKWEILER.—Well, that is shown by the record of the court, anyway.

Mr. McNAB.—Yes.

The COURT.—As I remember it, there was a photograph attached to this record coming from Vermont.

Mr. McNAB.—No, not to the Vermont record, but he attached his photograph when he made his application to depart from Seattle.

Mr. SCHOONOVER.—No, there was a picture on

(Testimony of Yee Chung.)

the one he lost in his trunk. Is that what your Honor means?

The COURT.—No.

Mr. DOCKWEILER.—No, attached to Exhibit “A” is a photograph, but your Honor will recall that that photograph is attached to the affidavit and to the certificates of the Presbyterian minister and the banker, and the additional record in both of them, and [47] all the papers, that is, the affidavits and the certified copy of the records of the Vermont court, are put together and form one document. They are bound together. They are really separate documents.

Mr. SCHOONOVER.—That does not reach the question asked by you—whether or not the certificate asked of Johnson, the commissioner, that the defendant had lost in his trunk, did not bear a photograph.

Mr. DOCKWEILER.—Commissioner Johnson did not attach a photograph.

Mr. McNAB.—I think that is answered by this correspondence which was sent on by stipulation between counsel, if your Honor please, and I will briefly read a few of the—

The COURT.—Are you offering it in evidence?

Mr. McNAB.—Yes.

Mr. SCHOONOVER.—We have no objection.

The CLERK.—It will be Defendant’s Exhibit “F.”

Mr. McNAB.—A number of questions were asked of the Commissioner—asking them to investigate

(Testimony of Yee Chung.)

the authenticity of the record—and you will notice in the last letter that he states he had compared it with the carbon copy.

Q. (By Mr. McNAB.) After your sons arrived in San Francisco, where did they go?

A. To Pittsburg.

Q. Where are they now?

A. They were there before.

Q. At Pittsburg? A. Yes.

Q. What were they doing in Pittsburg?

A. In school.

Q. What kind of a school?

A. An English school.

Q. A school to learn the English language? [48]

A. Yes.

Q. Where does your father now live?

A. In China.

Q. When did he leave Boston?

A. He sold his business in K. S. 33, in the early part of the year, and then came over to Pittsburg in the 5th month. Oh. He came over to Pittsburg, and he left Pittsburg about the fifth month, and then went to China by the port of Vancouver.

Q. What State?

A. I don't know the name of the State, but that is the place.

Q. Did you go with your father and see him go or did he simply leave you at Pittsburg?

A. Oh, I went to China first.

Mr. McNAB.—I don't think he understood me. I want to ask him this question.

(Testimony of Yee Chung.)

Q. Where did he bid his father good-bye?

A. Why, in Boston.

Q. You said your father came on to Pittsburg after selling out his store. Now, did he leave from Pittsburg to go to China, or did he leave from Boston?

A. He left Pittsburg. From there he went to China.

Q. Were you down at Boston about the time he closed up his store or not? A. No.

Q. Perhaps you misunderstood me. Where did you last see him before he left for China?

A. In Boston was the last time I saw him here in the United States. Of course, I saw him in China afterwards.

Q. Yes, but explain how it was that he happened to see him in Boston, and did he see him in Pittsburg, too? A. I didn't see him in Pittsburg.

Q. Oh, I understand. Then after you bade him good-bye at [49] Boston, did you see him again until you saw him in China?

A. I saw him last in Boston, and then I saw him again in China.

Q. Well, after he left Boston, you didn't see him again until you saw him in China?

The INTERPRETER.—Boston, is it?

Mr. McNAB.—Well, whenever he said he saw him last. A. Yes, sir.

Q. Do you know anything about how he left the country, except what he told you?

A. Except what he told me, because he said he

(Testimony of Yee Chung.)

sold his business in Boston and went over to Pittsburg to collect some bills, some debts owing him, and from there on the fifth month, he went to the Portal, and then from there to Vancouver, and went to China.

Q. Did you go with him to Portal?

A. No, I was in China already.

Q. Then all you know about it—what he told you?

A. Ying Ark told me, because my father told him and he told me.

Q. Where were you living at the time your father lived in China? A. I was in China.

Q. Then when you say you bade your father good-bye in Boston, you mean before you left for China, do you?

A. No. When I first came back from China I bade him good-bye there, and then I went to Pennsylvania from there.

Mr. McNAB.—Oh, yes. I understand. That is all. Cross-examine.

Cross-examination.

(By Mr. SCHOONOVER.)

Q. Ask the witness when he first saw his father.

A. Well, I was born in San Francisco and went with him to China.

Q. Ask him when he first saw his father.

The COURT.—Direct your questions to the witness in English.

Q. (By Mr. SCHOONOVER.) Well, when he first remembers seeing his father—

(Testimony of Yee Chung.)

The COURT.—No, “When did you—.” [50]

Q. (By Mr. SCHOONOVER.) All right. When did you first see your father and know him to be your father? A. Well, when I was a child.

Q. How old were you?

A. When I know something.

Q. Where was your father then?

A. He was in China.

Q. Was your mother there at that time?

A. Yes, sir.

Q. Any other children?

The INTERPRETER.—By “children” do you mean his parents?

Mr. SCHOONOVER.—Yes, other than he.

A. No, sir.

Q. (By Mr. SCHOONOVER.) Do you know how long your father and mother had been married, or did you ever hear them say how long they had been married, before you were born?

A. No, they didn’t tell me.

Q. And you remained there with them in China, you say, until you were eighteen years old. You stayed there about sixteen years? A. Yes, sir.

Q. Did your father stay there during that time?

A. He was in the United States.

Q. How long did he stay when he took you over there, you and your mother?

A. Only a few months.

Q. Did he come back again during the sixteen years while you were there, to China?

(Testimony of Yee Chung.)

The INTERPRETER.—Come back to the United States?

Mr. SCHOONOVER.—No, to China from the United States. A. No.

Q. When did you next see your father after he left China? [51]

A. I next saw him in Burlington.

Q. Did you see him in China before you came back?

Mr. McNAB.—There were two trips to China.

Mr. SCHOONOVER.—Well, during the 16-year period that he stayed there.

Mr. McNAB.—I wish you would make that clear.

Q. (By Mr. SCHOONOVER.) Well, after your father and mother and you, as you say, went over to China, did you see your father over there before he came back to this country?

A. Yes, I saw him every day before he left to come back.

Q. Before he left? A. Before he came back.

Q. And how old were you when he started back from China? A. Three years old.

Q. Is that Chinese or American count?

A. You see I was born in K. S. 6, the first month, and then the eighth year would make three years.

Q. Then you were born in K. S. what?

A. K. S. 6. The eighth day of the first month.

Q. And when did your father start from China to come back to the United States?

A. I heard that it was the 6th or 7th month when he left there.

(Testimony of Yee Chung.)

Q. What K. S.? A. K. S. 8.

Mr. McNAB.—That means that he returned from China in 1882. Is that right?

The INTERPRETER.—He said he left there about the 5th month.

Mr. BRAZIE.—June or July, 1882.

Mr. McNAB.—When you speak of “he” I want to know whether it was this witness or his father. Who was it the witness said came back from China?

The INTERPRETER.—Well, I take the witness’ place. He meant the father. [52]

Mr. McNAB.—When does the witness say his father, now, left China to come back?

Q. (By Mr. SCHOONOVER.) Ask him when his father left China to come back, when he was a baby?

A. He left there either the fifth or sixth month of K. S. 8.

Mr. BRAZIE.—That would be June, July or August, 1882.

Q. (By Mr. SCHOONOVER. And when, according to our computation, was he born?

Mr. BRAZIE.—He was born February 17, 1880, according to the calendar.

Q. (By Mr. SCHOONOVER.) You say you next saw your father in San Francisco. or Burlington, Vermont? A. Yes, sir.

Q. And when was that?

A. The latter part of the year K. S. 23.

Mr. BRAZIE.—1897.

Q. (By Mr. SCHOONOVER.) Can he give the month that he saw his father there in Burlington,

(Testimony of Yee Chung.)

Vermont? A. The twelfth month, I think.

Mr. BRAZIE.—That would be December, 1897, or January, 1898.

Mr. McNAB.—The certificate says he was there January, 1898. He was arrested sometime before that.

Mr. DOCKWEILER.—At the end of December.

Mr. SCHOONOVER.—Well, we insist there is no evidence that this defendant ever was arrested there.

Mr. McNAB.—There is only his testimony that he was, and the record shows he was.

Q. (By Mr. SCHOONOVER.) What time did you land on the "Empress of Japan" at Vancouver?

A. The eleventh month.

Mr. BRAZIE.—The eleventh month of what?

A. K. S. 43. [53]

Mr. SCHOONOVER.—That is in 1897?

The INTERPRETER.—Yes.

Mr. BRAZIE.—From November 24—

The INTERPRETER.—Or December, I mean.

Mr. BRAZIE.—That is from November 24 to December 23, 1897.

Mr. SCHOONOVER.—That is 1897?

Mr. BRAZIE.—1897.

Q. (By Mr. SCHOONOVER.)—Ask him what boat he landed at Vancouver on on that date.

A. One of the "Emperesses," but I don't know the other part of the name.

Q. You did know when you were examined before

(Testimony of Yee Chung.)

the Commissioner here, didn't you, and testify what boat it was?

A. One of the "Empresses," that is all.

Q. Didn't you testify here before the Commissioner that it was the "Empress of Japan"?

Interpreter LEVY.—The Commissioner here?

Mr. SCHOONOVER.—Yes, the Commissioner here.

A. There was several "Empresses." I didn't say particularly any one.

Q. Ask him if he remembers here when he testified with Mr. Gintgee as his interpreter before the Commissioner.

A. I don't remember that, because all I remember is that it was one of the "Empresses." There were several of them.

Q. You don't remember now, then, that you testified through Mr. Gintgee, the interpreter, that you landed at that time in Vancouver on the boat "Empress of Japan"?

A. As I remember, I told that it was one of the "Empresses."

Q. That is all you do remember, that you said it was one of the "Empresses"?

A. Yes, one of the "Empresses."

Q. It was one of the "Empresses." Ask him if he means [54] "Empress" or "Emperor."

A. The Chinese call it the "Empress."

Q. I will ask you if you were not asked this question on examination here before the Commissioner and if you did not testify through the interpreter,

(Testimony of Yee Chung.)

Mr. Gintgee, as follows, at page 71 of the transcript of the hearing before the Commissioner, being volume 1, including the proceedings of August 6, 1914,—if you were not asked by Mr. Dockweiler, your counsel, this question: “Q. On what boat did you come back, if you remember?” and if you did not answer “‘Emperor of Japan.’” “Emperor,” it is written here, “of Japan.” “Way of Vancouver.”

A. I always remember as the “Empress.” I might have said the “Empress of Japan.”

Q. Well, if you did say the “Empress of Japan,” then why did you say the “Empress of Japan”?

A. Because all those steamers, the Chinese call them “Empress.”

Q. It appears here that you were asked the simple question, “On what boat did you come, if you remember?” the first time any question was asked you as to the boat, and that you answered, “Emperor of Japan, way of Vancouver.”

A. Well, possibly it was the “Empress of Japan.”

Q. If you made that answer at that time you believed at that time, did you not, that it was the “Empress of Japan” that you landed on at Vancouver?

A. Yes.

Q. And after answering the question in that way I will ask you if Mr. Dockweiler did not repeat the inquiry in this form: “Emperor of Japan?” and if you did not answer, “By way of Vancouver.”

A. Yes.

Q. And then he asked you the question, “Did you

(Testimony of Yee Chung.)

land at Vancouver?" and you answered, "Yes, landed in Vancouver." A. Yes. [55]

Q. And then he asked you, "Then from Vancouver where did you go?" and you answered, "After landing on the 'Emperor of Japan' in Vancouver, then take the rail there to Vermont where my father intended to meet him there."

Mr. DOCKWEILER.—"Intended me to meet him there."

Mr. SCHOONOVER.—"Where my father intended me to meet him there"—Yes.

A. Not that way?

Q. You didn't answer that way?

A. It might be a mistake somewhere there.

Q. Is this your signature (showing document)?

A. Yes.

Mr. SCHOONOVER.—This document is dated S. F., Cal., November 17, 1909, No. 47, Yee Chung, Inspector Long. The "Manchuria," November 12, 1909. Statement of applicant.

Mr. McNAB.—Is it proposed to impeach this man—

Mr. SCHOONOVER.—I propose to ask him if he did not testify on this occasion—

Mr. McNAB.—Is it proposed to impeach this witness by his Chinese signature to an American writing without showing whether he ever read this type-written instrument?

Mr. SCHOONOVER—I think that would be a matter of cross-examination.

The COURT.—I do not know what is proposed

(Testimony of Yee Chung.)

yet; we haven't gone far enough.

Q. (By Mr. SCHOONOVER.) I will ask you: When did you sign this, and what was your reason for signing that paper (same paper).

The INTERPRETER.—He asks how old the paper is.

Mr. SCHOONOVER.—Well, I will put the question in another form.

Q. Did you, when you landed on the “Manchuria,”—

Mr. DOCKWEILER.—Wait. The witness asks for information. [56]

Mr. SCHOONOVER.—It is dated November 17, 1909, at San Francisco, California.

A. Well, if the paper is of that age, then I signed that, yes.

Q. And it is the statement that you made when you landed on the “Manchuria” on that date, is it not, to the inspector?

Mr. McNAB—I object to that as calling for a conclusion of the witness. How can this witness know what is in a Government document that he cannot read?

The COURT.—It does not appear that he cannot read it, but it appears that he did not read it.

Mr. SCHOONOVER.—The witness answers the question and says yes, it is that statement.

The COURT.—Well, it is overruled anyhow. Go on.

Q. (By Mr. SCHOONOVER.) Now, I call your attention to this statement in the statement—

(Testimony of Yee Chung.)

Mr. DOCKWEILER.—Well, read the whole statement.

Mr. SCHOONOVER.—No, I don't know that that is necessary.

Mr. McNAB.—Well, one thing is necessary, and that is that I know the page of that so that if you are going to ask my witness concerning it I am going to have it. Will you kindly give me the page?

Mr. SCHOONOVER.—This is not paged.

Mr. McNAB.—Well, so that I can have some way of identifying it.

The COURT.—It is identified by the date and signature. Now, proceed and ask him what you want to know.

Mr. McNAB.—If it contains some withering blast material I would like to have it all and be done with it.

Mr. DOCKWEILER.—Well, I don't think it does.

The COURT.—Let us see what it does contain.

Mr. SCHOONOVER.—Well, I read *read* this to him: "What is your name? A. Yes. Q. Yee Chung, no other name. Q. How many trips have you made to China? A. Two. Q. What is your]57[business? A. Laundryman at Carnegie, Pennsylvania; called Yee Lee Laundry, at 111 Main Street. Q. When did you depart the first time? A. When I was two years old, with my father, and returned K. S. 23, the 11th month, on the "Empress of Japan," arriving at Vancouver, and went to Burlington, Vermont." That is all I care for.

(Testimony of Yee Chung.)

Mr. McNAB.—Now, I would like the whole statement.

Mr. DOCKWEILER.—Is the difference between the words “Emperor of Japan” and “Empress”?

The COURT.—Well, I suppose you want to know if he made that statement.

Mr. SCHOONOVER.—Yes.

The COURT.—Ask him.

Mr. SCHOONOVER.—Well, he says he signed the paper on which the statement appears.

The COURT.—He may have signed that paper and not know anything about it.

Q. (By Mr. SCHOONOVER.) Well, I will ask you if you made the statement that I have read there, then: “When I was two years old with my father I returned K. S. 23, the 11th month, on the “Empress of Japan,” arriving at Vancouver, and went to Burlington, Vermont.”

Mr. DOCKWEILER.—Read the whole answer.

Mr. SCHOONOVER.—“The next trip I departed K. S. 23, 16, on the steamship ‘Dakota.’ That steamship sank near Japan and I lost all my papers and possessions”

Q. Now, I want to ask you this question: Did he state in this statement that bears his signature at that time as follows: “When I was two years old, with my father I returned K. S. 23, the 11th month, on the ‘Empress of Japan,’ arriving at Vancouver, and went to Burlington, Vermont.” A. Yes.

Mr. McNAB.—Maybe these dates prove confusing to the Court. Is [58] the question you are

(Testimony of Yee Chung.)

now directing to the witness intended to impeach him as to any date?

Mr. SCHOONOVER.—As to whether he landed on a boat “Empress of Japan” or not?

Mr. McNAB.—You are trying to determine the sex of the boat—whether “Emperor” or “Empress”?

Mr. SCHOONOVER.—Not at all.

Mr. McNAB.—I am trying to find out, in good faith, what you are trying to impeach him on.

Mr. SCHOONOVER.—I am trying to show that he has testified on these other occasions, including his testimony before the Commissioner in this case, that he arrived in Vancouver on that date on the “Empress of Japan.” He says that on every occasion, except that the record here before the Commissioner has it read “Emperor of Japan.”

Mr. McNAB.—But at no time has he ever given any other state, I understand.

Mr. SCHOONOVER.—No, but he says now that he does not remember what boat he did land on, except that it was some “Empress.”

Mr. McNAB.—Well, I understand that.

Q. (By Mr. SCHOONOVER.) I will ask you if you made a sworn statement to the inspector at Homestead, Pennsylvania, June 16, 1913, in the matter of the investigation of your son Yee Woh.

The INTERPRETER.—Oh, you mean, did he give that evidence at that time?

Mr. SCHOONOVER.—Yes.

A. Yes, sir; I was interrogated.

(Testimony of Yee Chung.)

Q. Made a sworn statement? A. Yes, sir.

Q. Were you asked this question: "How many trips did you make to China?" and did you answer, "Two trips"? A. Yes. [59]

Mr. McNAB.—Just a moment. That is objectionable as to the manner of asking it. The statute requires that the question be read to him and ask him if he made that statement; not to state the question to him.

The COURT.—Well, I suppose that would be the way. But the defendant says yes.

Q. (By Mr. SCHOONOVER.) Were you then directed "Tell me of them"?

The INTERPRETER.—I didn't catch the question.

Mr. SCHOONOVER.—He was asked how many trips he made to China. He says, "Two trips." And then he was asked, "Tell me of them."

Mr. McNAB.—The state courts on a matter of this sort distinctly hold that, especially after many years have intervened, the witness should have an opportunity to refresh his recollection in regard to it. It would have to be done through the interpreter. Here he is asked whether or not a certain individual question was asked many years ago in a distant State. I confess to your Honor that I could not answer it or attempt to answer it.

Mr. SCHOONOVER.—I am doing that because you forced me to. When I offer the instrument you say he cannot read it. This statement is dated Pittsburgh, Pennsylvania; then later, in parenthesis,

(Testimony of Yee Chung.)

“Homestead, Pennsylvania, June 16, 1913.”

Mr. McNAB.—Our purpose in asking is that we may want to put the whole record in.

Mr. SCHOONOVER.—June 16, 1913. The parts I have read appear on page 4.

Mr. DOCKWEILER.—In what file is that?

Mr. SCHOONOVER.—San Francisco file No. 12,720; 817. We will now offer this in evidence, together with the entire record, or so much thereof as counsel may desire to refer to.

Mr. McNAB.—We object to the entire record being offered in evidence.

The COURT.—The objection is sustained. He says he has answered [60] the questions as you have indicated.

Mr. SCHOONOVER.—We will also, then, introduce in evidence file No. 12,017 above the line, and 2,844 below the line, initialed A. B., of the examination testified to by the witness at San Francisco on November 17, 1909.

Mr. McNAB.—I object to it as not proper cross-examination. Nothing has been asked the witness concerning it, and it contains hundreds of matters that we know nothing about.

Mr. SCHOONOVER.—I am not offering the whole record, in view of the Court's ruling on the other; I am only offering that portion of it.

The COURT.—He has admitted that he said the things you asked him about.

Mr. SCHOONOVER.—Yes.

The COURT.—Well, that has already been proved.

(Testimony of Yee Chung.)

Mr. SCHOONOVER.—Yes.

The COURT.—The objection is sustained. We will take a recess now until 2 o'clock.

(A recess was thereupon taken until 2 o'clock P. M.)

AFTERNOON SESSION.

2 o'clock P. M.

Mr. McNAB.—If your Honor please, counsel for the Government and myself have been discussing the question as to when we are likely to proceed with this case after to-day. I don't know what your Honor's practice in regard to Saturday is.

The COURT.—How much time will it require?

Mr. McNAB.—I don't know. It is growing longer than we thought it was. I thought we would get through by noon to-morrow, but the Government does not think so.

The COURT.—Well, we will keep on until to-morrow noon, anyhow. [61]

YEE CHUNG, defendant herein recalled—cross-examination resumed.

(By Mr. SCHOONOVER.)

Q. Where did the boat sail from in China that you landed on in Vancouver? A. From Hong Kong.

Q. When you left Hong Kong and left China, then, you left your mother there in China alone, did you? A. Yes, sir.

Q. And at the time you left Hong Kong and left your mother there alone, how long had your father been away from China? A. How long a time?

Q. How long? A. More than ten years.

(Testimony of Yee Chung.)

Q. Well, he left China and came back to the United States when you were about two and a half years old, you said. A. Yes.

Q. Then did he return to China after that before you took the boat at Hong Kong for Vancouver?

A. No, sir.

Q. Were there other Chinamen that came over on the boat from Hong Kong to Vancouver?

A. Yes, sir.

Q. Bound for Boston or Massachusetts?

A. Almost to any place.

Q. When you reached Vancouver and were inspected there, were other Chinamen inspected at the same time by the Canadian officers at Vancouver?

Mr. McNAB.—That assumes there was an inspection at those times. I doubt very much if there was.

The COURT.—Yes, there has been nothing to show that there was.

Mr. SCHOONOVER.—Well, I will ask him then, if he was examined [62] or inspected at Vancouver when he arrived there from Hong Kong.

Q. Were you inspected at Vancouver when you arrived there from Hong Kong? A. No.

Mr. McNAB.—What do you mean by “inspected?”

Q. (By Mr. SCHOONOVER.) You testified this morning that it was about six weeks from the time you landed at Vancouver until you were arrested in Vermont. Is that true?

A. Oh, I meant including the time when I left Hong Kong to the place where I was examined, six weeks.

(Testimony of Yee Chung.)

Q. You mean, then, that it was six weeks from the time you sailed from Hong Kong until you were arrested in Vermont? A. Yes.

Q. Do you remember how long it took you to come from Hong Kong to Vancouver?

A. I forget exactly how long, but a little over three weeks.

Q. Then it was about three weeks from the time you landed at Vancouver until you were arrested in Vermont, was it? A. Yes.

Q. Did you stop at Vancouver before proceeding to Vermont after you left the boat?

A. A few hours.

Q. You left Vancouver by train then, the same day that you landed on the boat? A. Yes.

Q. Did any Chinamen leave Vancouver with you on the train, that had been with you on the boat coming to Vancouver? A. Yes.

Q. How many? A. I don't know how many.

Q. Well, were there as many as ten?

A. I don't know.

Q. Did they travel in the same car with you out of Vancouver toward Vermont? A. Yes. [63]

Q. Were there white people other than Chinamen or any persons other than Chinamen passengers on that train? A. Yes.

Q. Any passengers other than Chinamen in the car that you rode in? A. Yes.

Q. Did these Chinamen, who were with you when you left Vancouver on the train go as far as you did, all of them?

(Testimony of Yee Chung.)

A. Some got off on the way. Some got off at Montreal.

Q. They all rode with you, then, as far as Montreal, did they? A. Yes, sir.

Q. Did you get off at Montreal, too?

A. Yes, sir.

Q. How long did you stay in Montreal?

A. Three or four days.

Q. Then where did you go from Montreal?

A. Then took a train for Burlington, Vermont.

Q. Did you change cars between Montreal at Burlington, Vermont?

A. Yes, we changed cars on the way; half way.

Q. Ask him if he changed just once between Montreal and Burlington, Vermont.

A. As I remember, only once, because the white man called for people to get off and take the other car.

Q. There was a white man, then, in charge of the car you were in?

A. Well, there was a white man that called to get off the train.

Q. Was there a white man in charge of the car from Vancouver to Montreal?

Mr. McNAB.—I object to that, if your Honor please, as calling for a conclusion of the witness as to who might be in charge of the train. I do not presume this witness knows. It is susceptible, in cases of this kind of grave consequences if even the slightest error is made, and we think it ought to be made [64] more specific.

(Testimony of Yee Chung.)

Mr. SCHOONOVER.—I am asking him about having charge of the car and not of the train.

Q. Ask him if there was a man in this country who was in charge of himself and the other Chinamen to tell them where to get off—if he knows whether there was such a man or not—from Vancouver to Montreal, first.

A. Well, there were conductors in charge of it, yes.

Q. Well, when he says that the white man told them at the point between Montreal and the place where he left the train at Burlington, Vermont, he means the conductor of the train, does he, or do you?

A. Yes.

Q. How long did you stay at this point between Montreal and Burlington, where you changed cars?

A. Why, we stopped there two days.

Q. Then where did you go from that point where you changed cars?

A. There was a white man took us to another car and then go ahead.

Q. By "us" you mean yourself and the other Chinamen? A. No, only myself.

The INTERPRETER.—I might explain: The Chinese word has no number, so I sometimes—I thought it was maybe "us" because of the "kow" or "kay."

Mr. SCHOONOVER.—And when you said "us" the witness did not say "us"?

The INTERPRETER.—No, it seemed so. Well, he means there "we" or "us" or "myself"—"me." That is, in Chinese.

(Testimony of Yee Chung.)

Q. Then do I understand there were no Chinamen went with you from Montreal to the place where you changed the cars at Burlington? A. I was alone.

Q. Was Montreal the last place you saw any of the Chinamen that [65] were on the boat with you when you landed at Vancouver? A. Yes, sir.

Q. What kind of a ticket did you have from Hong Kong? Where was its destination—Hong Kong to what place in the United States, if it was the United States? A. To Montreal the ticket was.

Q. The ticket was from Hong Kong to Montreal? A. Yes, sir.

Q. Did you have any ticket to Boston at all? A. Yes.

Q. Where did you get the ticket to Boston?

A. My father sent for that paper for me. I bought a ticket at Hong Kong at a Chinese store; a steamship ticket, I mean.

Q. Where did that entitle you to ride to—Montreal or Boston?

A. The ticket brought me Hong Kong to Montreal.

Q. Did you get another ticket in Montreal?

A. That ticket was sent over to me by my father.

Q. Where from? A. From Boston.

Q. Where to? A. To Montreal.

Q. When did you get it in Montreal?

A. There was a Chinese store there, and when I got off there I got the ticket there.

Q. Was the ticket there when you got to Montreal? A. No.

Q. How long did you stay in Montreal?

(Testimony of Yee Chung.)

A. Five or six days.

Q. When did the ticket come?

A. Two or three days.

Q. How did your father know you were in Montreal?

Mr. McNAB.—I object to that as calling for a conclusion of the witness. [66]

The COURT.—The objection is overruled.

A. I wrote to my father in China before I left home.

Q. (By Mr. SCHOONOVER.) What did you write him?

A. I told him beforehand that I would come at a certain date.

Q. You told him you would reach Montreal at a certain date?

A. I told him that at a certain date I would leave China.

Q. Did you tell him what boat you would leave on?

A. I told him that at a certain date I would take one of two or three—take an “Empress.”

Q. You didn’t tell him which “Empress”?

A. No, because I didn’t know which was which.

Q. How did you know it would be an “Empress” if you didn’t know which “Empress” would leave on that particular date?

A. I told him in what month.

Q. You told him you would leave Hong Kong on a certain date on an “Empress” boat, did you?

A. Yes, sir.

Q. How did you know it would be an “Empress”

(Testimony of Yee Chung.)

boat that would leave on that date, if you didn't know which "Empress" boat it would be?

A. Well, they were speaking about it in Hong Kong among the storekeepers there.

Q. I call your attention again to the examination here in this same matter held before Commissioner Williams, which began on the 6th day of August last, and I will ask you if at that hearing, on page 87 of the transcript of the hearing, beginning on line 11, you were not asked this question: "What kind of a ticket did you have? Did you have a ticket from your home, from the beginning of your journey in China, direct through, or merely to Vancouver, on the steamship?" and if you did not answer "The ticket is direct from Hong Kong to Boston"?

A. Yes.

Q. Who told you what train to take when you changed cars at [67] Montreal?

A. Why, the Chinese storekeeper in Montreal.

Q. Is he connected with the railroad?

A. I didn't know that.

Q. Is he the same man that you say you got your ticket from that was sent up there by your father?

A. Yes, sir.

Q. Wasn't there a Chinese that told the Chinamen where to go from on the train from Vancouver to Montreal? Was there a Chinese in charge there?

A. Yes.

Q. Was he a Chinese agent of the railroad, or whose agent was he? A. I didn't know.

Mr. McNAB.—Where is this—on the train or at Vancouver?

(Testimony of Yee Chung.)

Mr. SCHOONOVER.—On the train from Vancouver to Montreal.

A. I didn't know who he represented.

Q. It was, then, a Chinese person that dictated to you and the other Chinese passengers what you should do, was it not?

Mr. McNAB.—Just a moment. I am in doubt as to whether the District Attorney is referring to on the train or at Montreal.

Mr. SCHOONOVER.—No, on the train from Montreal to—

Mr. McNAB.—Will you kindly include that?

Mr. SCHOONOVER.—Yes; I followed it with the other question and I intended to apply it to the same trip.

Mr. McNAB.—Well, I don't understand it myself and I would like to.

The COURT.—It is very evident what time was meant.

Mr. McNAB.—I defer to the ruling of the Court, although I myself would like to know because I understand there was an agent at Vancouver.

Mr. SCHOONOVER.—Well, he said I think there was one on the train. [68]

Mr. McNAB.—Well, that is the thing I would like to clear up.

The COURT.—Put it in the question, then.

Q. (By Mr. SCHOONOVER.) Well, where was it, anywhere from Vancouver to Burlington, Vermont, that a Chinese dictated to you and the other Chinese persons where you should go, when you

(Testimony of Yee Chung.)

should leave the train, and what train you should take when you did leave?

A. There was no Chinaman on the train on the way, but there was one that got on the train at Vancouver. There was Chinamen told us to get on.

Q. Chinamen or Chinaman?

A. Chinaman; one.

Q. There was a Chinaman told you to get on the train at Vancouver, but he didn't go to Montreal with you; is that so?

A. No, there was Chinaman go around with us on the train.

Q. Who told you to get off the train at Montreal?

A. Another Chinaman over there told us to get off.

Q. He met the train, then, at Montreal, did he?

A. Yes.

Q. Did he tell you and all the other Chinamen to get off there? A. Yes.

Q. Did you all go with him?

A. Yes; we went to his store.

Q. Did the other Chinamen get tickets at this same store to go to other places from Montreal?

A. That I don't know.

Q. Were these Chinamen landed at Montreal with you still there at this store when you left to go to Burlington? A. Yes.

Q. They didn't leave Montreal with you, but you went alone from Montreal down to the place where you changed cars for Burlington?

A. That was it.

Q. Where did you first see your father after you left Montreal? [69]

(Testimony of Yee Chung.)

A. In the courtroom in Burlington.

Q. And how long after you had been arrested?

A. Several days.

Q. Do you remember how many?

A. I don't remember how many days, but a number of days.

Q. Was there any other Chinaman arrested at the same time? A. At that time? No, I was alone.

Q. Was any other Chinaman questioned or stopped by an inspector at the time you were?

A. No; I was the only person.

Q. Where were you arrested?

A. I don't know the name of the place, but on the way between Montreal and Burlington.

Q. Was it in the United States, or Canada?

A. In the United States.

Q. Were you arrested on or off the train?

A. That was the place where the conductor told me to get off.

Q. To change cars? A. Yes.

Q. And were you arrested as soon as you got off the train there? A. Yes, sir.

Q. And where were you taken when you were arrested?

A. Why, he took me into a house. I was shut up there several days.

Q. At this place where you changed cars you were kept for several days? A. Yes, sir.

Q. Were you taken down to Burlington the same day you saw your father there from this point?

A. No.

(Testimony of Yee Chung.)

Q. How long were you in Burlington before you saw your father there?

A. I don't remember how many days, but several days.

Q. —you were in Burlington, before your father came up? A. Yes.

Q. Then you were several days at this point where you changed [70] cars and several days in Burlington before your father came? A. Yes.

Q. Where were you when you first saw your father at Burlington? A. In the courthouse.

Q. What time of the day did you first see your father in the courthouse?

A. I don't remember what time, but it was late in the forenoon.

Q. And where were you taken from to the courthouse?

A. Another place, in a house in Burlington.

Q. How far from the courthouse?

A. I can't recall how far it was.

Q. Were you taken directly from the train to this place near the courthouse when you reached Burlington? A. Yes, sir.

Q. Was this place nearer to the railroad station than the courthouse? A. I don't remember.

Q. Did you get any word from your father before you saw him in the courtroom there after you were arrested?

A. No, I got no words from him. I only saw him in the courthouse.

Q. Did you send any word to him after you were

(Testimony of Yee Chung.)

arrested and before you saw him in the courthouse?

A. No, sir.

Q. Did you send word to anybody after you were arrested and before you saw your father in the courthouse?

A. I wrote a note to my father saying that I was arrested by a white man here and kept in the house.

Q. Where did you write that from?

A. From Burlington.

Q. Did anybody come from Burlington to Boston with your father? A. I don't know. [71]

Q. Did you see anybody with him there when you met him in the courthouse?

A. Yes, there was a Chinese interpreter there.

Q. Did you know your father when you saw him there? A. Yes.

Q. You recognized him, did you? A. Yes.

Q. You knew that he was your father there in the courtroom without anybody telling you he was your father, did you? A. Somebody told me.

Q. Who told you that he was your father?

A. A Chinaman there.

Q. That is the interpreter? A. Yes.

Q. What kind of a looking man was this Johnson that tried you and gave you the certificate?

A. An old man with gray hair and a long white beard.

Q. Was he a large or small man?

A. Good big man; a good-sized man.

Q. How many people were in the courtroom when you had your hearing?

(Testimony of Yee Chung.)

A. There were a number of white men there.

Q. Was this man Johnson the biggest man in the room, the man that tried you?

A. No, there were white men there nearly or about the same size.

Q. Now I want to call your attention to your re-examination by inspector Mayer at San Francisco on December 10, 1909, after your arrival on the "Manchuria."

Mr. McNAB.—That was the examination immediately preceding Mr. Mayer's recommendation that he be landed? I think that is the only one Mr. Mayer examined him on.

Mr. SCHOONOVER.—Well, it will be understood, so far as I am [72] concerned, by court and counsel, that this Mr. Mayer did recommend his landing and passed on him.

Mr. McNAB.—There is no dispute about that.

Mr. SCHOONOVER.—It has been suggested so often that I think it is clear in the mind of everybody that the investigation was made.

Mr. McNAB.—I do not think there is any dispute about that. I think he examined him twice, didn't he? Which one is it?

Mr. SCHOONOVER.—This is the re-examination, as of this date, as I say,—of December 10, 1909.

Q. Do you remember being examined by inspector Mayer on December 10, 1909, after your arrival on the boat "Manchuria"? A. Yes.

Q. Ask him if he signed a written statement at that time of his examination.

(Testimony of Yee Chung.)

A. I was examined on board the ship and then was examined again in the detention house.

Q. Now, this refers to the re-examination in the detention house. A. Yes.

Q. Ask him if that examination at the detention house was written up and whether he signed the statement? A. Yes.

Mr. McNAB.—Just a moment. Well, all right.

Q. (By Mr. SCHOONOVER.) Ask him if the statement was read to him before he signed it?

A. No.

Q. It was not read to him? A. I can't recall.

Q. Whether it was read to him or not?

A. I don't remember now.

Q. Is that your signature (exhibiting paper to witness)? A. Yes. [73]

Q. I will ask you if you remember that you were asked in that examination: "Do you remember that judge who heard your case and discharged you distinctly (referring to Commissioner Johnson)?"

A. That was the question, yes.

Q. And did you answer "yes"? A. Yes.

Q. Do you remember that you were asked this question: "Was that man who acted as a judge in this case a large, small or medium-sized man?" and you answered "A big man"? A. Yes.

Q. And do you remember that you were then asked "About how much did he weigh? Answer: I don't know how many pounds he weighed, but he was considerably larger than the average man. He was the largest man in the room."

(Testimony of Yee Chung.)

A. No, because the white men generally are large size. I can't say that he was the largest one.

Q. Well, did you say at that time, at the time of this examination, as set down here above your signature, that he was the largest man in the room, at the time of your hearing before him?

A. I don't remember that I stated that.

Q. You say this Commissioner Johnson at Burlington, Vermont, gave you some kind of a certificate?

A. Yes.

Q. And when you took the boat "Dakota" from Seattle you had two of them, did you not, one in your pocket and one in your trunk? A. Yes, sir.

Q. The one that you had in your trunk had your picture on it, did it not? A. Yes.

Q. Who put the picture on it?

A. I didn't see it placed on. [74]

Q. Where was it placed on—when and where?

A. I don't know, because it was handed to me by my father.

Q. And when did your father hand it to you?

A. In Boston.

Q. Right after the hearing at Burlington?

A. No, after we reached Boston.

Q. From Burlington, after the hearing and you went from Burlington down to Boston.

The INTERPRETER.—Yes, after we got to Boston.

Q. Did you take the certificate with the picture on it from Burlington down to Boston—with you, when you went down together?

(Testimony of Yee Chung.)

A. I didn't know that, because I knew he gave it to me after we got to Boston?

Q. How long after?

A. At the time when I left Boston for Carnegie.

Q. And how long were you in Boston before you left for Carnegie? A. Four or five days.

Q. Your father ran a store there, did he, in Boston? A. Yes, sir.

Q. What firm was he connected with?

A. The Sam Sing store.

Q. What was the number and street?

A. Harrison street.

Q. What number? A. 40.

Q. Your father was then a member of what firm in Boston? A. Sam Sing.

Q. Was it known by any other name, if you know?

A. No.

Q. How long had your father been in business at that place before you went down there with him from Burlington, Vermont? [75]

A. Well, he went in there in K. S. 22; I went over there in K. S. 23. He had been there over a year, I guess.

Mr. McNAB.—We have no objection to that (returning document to counsel). Just a moment.

Q. (By Mr. SCHOONOVER.) How did your father spell his name? A. I don't know.

Mr. DOCKWEILER.—Do you want to use this (referring to document)?

Mr. SCHOONOVER.—Yes.

Mr. DOCKWEILER.—Where is the rest of the

(Testimony of Yee Chung.)

record that was sworn to September 20, 1895?

Q. (By Mr. SCHOONOVER.) Is this a photograph of your father as he appeared when you went down to Boston with him from Burlington, Vermont (exhibiting picture)?

A. No. (After re-examining picture.) Yes, that looks like my father.

Mr. SCHOONOVER.—I want to offer in evidence that partnership certificate there (handing paper to counsel).

Q. I will ask you if you remember testifying before the commissioner here, Mr. Williams, in this same matter that when this picture just submitted to you now was submitted to you it was not a picture of your father.

Mr. McNAB.—He does not say now that it is a picture of his father; he says it looks like his father. His first statement was that it was not.

A. It was not this picture shown to me.

Q. Do you mean that the picture shown to you in the hearing here before the commissioner was not the picture that was—that I just showed you here?

A. This looks more like my father, a resemblance to my father's picture, but it was not in the other one.

Q. You say this is a different picture, then, than was shown to you in the hearing before Mr. Williams, the commissioner?

A. It don't appear to me to be the same. [76]

Q. That picture didn't look like your father looked when you saw him in Boston after you went down

(Testimony of Yee Chung.)

from Burlington, Vermont,—the picture that was shown to you before the Commissioner? A. No.

Q. And this picture does look like your father looked at that time?

A. There was some resemblance of my father, but not exactly.

Q. This? A. Yes.

Q. Ask him how his father differed from that in appearance?

A. He was not so fleshy at that time.

Mr. SCHOONOVER.—This is a picture that is pasted on the back of the first page of an affidavit of Yee Kim Shing, dated the 20th of September, 1895, sworn to before Francis S. Fisk, United States Commissioner, being a part of enclosures in cover marked No. 467, U. S. vs. Yee Chung, Government Exhibit 1, Charles N. Williams, U. S. Commissioner. We will offer it in evidence now in this case.

Mr. McNAB.—We object to it on the ground that there is no proof at all that this is the father, absolutely. It is not the same name, and there is nothing in connection with it showing that it is the father, and it is incompetent, irrelevant and immaterial at this time.

The COURT.—Let's see it. (Court examines picture.)

Mr. DOCKWEILER.—What did you offer—all of the papers put together?

Mr. SCHOONOVER.—Or the picture; as little or as much as will be satisfactory to you.

Mr. McNAB.—Well, let us know. How much

(Testimony of Yee Chung.)

do you want? The picture?

Mr. SCHOONOVER.—We want to get the picture in at present.

Mr. McNAB.—Very well; we object to it as incompetent, irrelevant and immaterial and not proper cross-examination. [77]

Mr. DOCKWEILER.—Your Honor will understand that the only thing offered at this time is the photograph itself.

The COURT.—I understand that.

Mr. SCHOONOVER.—We will offer that, if it may be, separate from the balance, simply for identification at this time.

Mr. DOCKWEILER.—Oh, well, they can offer anything they want to for identification; but we understand you were offering it in evidence.

Mr. SCHOONOVER.—Well, we think it is competent to go in evidence now.

The COURT.—What is the purpose in offering the photograph, Mr. District Attorney?

Mr. SCHOONOVER.—Well, at this time, as far as developed now, it would be as going to the credibility of this witness. It appears that it was upon an exhibit that was introduced before the Commissioner and might, if necessary, be followed by proof that it was the identical picture shown him. The witness states that that was not the picture shown him, that the picture shown him at that time did not look like his father at all, and that this does.

The COURT.—Well, for that purpose it will be admitted.

(Testimony of Yee Chung.)

Mr. McNAB.—That is, I understand it applies simply to the photograph.

Mr. SCHOONOVER.—For the present, yes.

Q. (By Mr. SCHOONOVER.) What was your father's name? A. Kim Sing.

Q. You say you don't know how he did spell it?

The INTERPRETER.—In English?

Mr. SCHOONOVER.—Yes.

A. No.

Mr. SCHOONOVER.—Now, we next offer in evidence the certified list of copartners of the firm of Sam Sing Lee Kee & Company, [78] No. 40 Harrison Avenue, Boston, Massachusetts, including the name Yee Kim Shing. There are a lot of these here, and they are dittoed, including our friend King Shim (Kim Shing).

Mr. McNAB.—Just a moment. That does not go in the record, does it, your Honor?

The COURT.—I don't know whether it does or not; but if it does, who is harmed?

Mr. McNAB.—Your statement that this is your friend, Mr.—

The COURT.—Well, Mr. McNab, do not take up time on such small things as that.

Mr. McNAB.—But if your Honor please—

The COURT.—Well, I don't care to hear anything about it.

Mr. SCHOONOVER.—(Continuing.) Including Yee Kim Shing, and we offer it in connection with the balance of the record upon which this photograph appears, and would ask that the two go in together

as evidence that the person whose photograph has been submitted to this witness was the Yee Kim Shing as shown by this certified list of copartners doing business at that place at that time, and the balance of the record, bearing his photograph, for the purpose of showing that he was not in Boston as of the date the witness testifies he went down there from Burlington, Vermont, with the witness.

Mr. McNAB.—To which we object on the ground that it is not only incompetent, irrelevant and immaterial, but not proper cross-examination, and that its admission in evidence is not authorized by any statute proving this to be a public record. It is a mere *ex parte* declaration. It is not shown even to be the same party.

Mr. DOCKWEILER.—On the face of the record there it shows that there was a man, a member of that firm, by the name of Yee Kim Shing, and there is no date to the printed statement of the list of partners—so far as I could read it was a list of [79] partners deposited in 1903 with the Treasury Department officials and then turned over to the Immigration Bureau. We are dealing with 1897.

The COURT.—What, Mr. District Attorney, is your theory in respect to this, anyhow?

Mr. SCHOONOVER.—That shows officially, as we contend, the only Yee Kim Shing of that firm and at that place,—

Mr. DOCKWEILER.—At what time?

Mr. SCHOONOVER.—As of January, 1898.

Mr. DOCKWEILER.—Well, in the fall of 1897

and spring of 1898?

Mr. SCHOONOVER.—Yes.

Mr. DOCKWEILER.—Now, where is there any date on that?

Mr. SCHOONOVER.—There is a date there that it bears of 1896 somewhere.

Mr. DOCKWEILER.—Where? I see there is a lead-pencil memorandum on the side.

Mr. McNAB.—It was deposited, as I read it, eight years after this whole episode is alleged to have taken place.

Mr. DOCKWEILER.—Upon the face of it, your Honor, that list shows that there was a man who was a partner—that is, if it is a correct list it shows that Yee Kim Shing was a partner. That carries out the statements of the witness here. But we do not know what the date of that was; we don't know whether it is a correct list; we do not know by what authority of law it is contended by the Government that that document there in its present state of certification is proper to be admitted.

The COURT.—In this hearing I do not see that it is relevant even though it is what it purports to be.

Mr. McNAB.—It is dated years after this is alleged to have taken place and is between parties that he doesn't know anything about.

The COURT.—If there is a law that provides for the deposit of this sort of certificate and makes it evidence of the facts [80] therein contained, where is it? Surely the mere fact that the certificate has been filed would not be held conclusive as

against this defendant who did not know anything about it and had nothing to do with it.

Mr. SCHOONOVER.—Well, he says that a man who was a member of this firm on a particular date and of a particular name was his father. Now we show that as being a certified copy of a list of names of partners of that firm, as of the date it bears, filed in pursuance of regulations, an official record, and, as counsel says, it is a way of corroborating the witness that there was a partner by that name in that firm of that date.

The COURT.—Anyway, it refers to 1903, assuming the other positions are tenable. That is five years after the transaction.

Mr. SCHOONOVER.—Well, then we will withdraw our offer, at least for the present.

The COURT.—Very well; it will be withdrawn.

Mr. SCHOONOVER.—But we will offer the balance of this certified record here bearing the photograph which has been submitted to the witness, which includes the affidavit of Yee Kim Shing made on his oath on the 20th day of September, 1895, that he at that time was a member of the firm of Sam Sing, Lee Kee and Company, dealers in Chinese and other merchandise at No. 40 Harrison Avenue, in the City of Boston; that his interest in the firm amounted to \$500; that he weighs 180 pounds, and is 5 feet, 4 inches high, etc.; and an affidavit of a man named Rand (?) for some purpose; together with a communication from the Chinese inspectors, a part of the file, addressed to the Collector

at Boston, Massachusetts; and also an indorsement that this person, Yee Kim Shing, departed from the port of Tacoma— [81]

Mr. SCHOONOVER.—And what is that?

Mr. McNAB.—Washington.

Mr. SCHOONOVER.—Washington, January 4, 1896; departed on British steamer “Victoria” January 4, 1896. And there are some indorsements on the cover here. And he was admitted again September 28, 1897, upon his return to this country.

Mr. McNAB.—Is that your offer?

Mr. SCHOONOVER.—Yes.

Mr. McNAB.—To this we object upon the ground that it is hearsay; that it is a declaration of a third party not binding upon this defendant; that the affidavit which is sought to be introduced is an affidavit of some party by the name of Yee Kim Shing stating the date of his birth and the interest that he held in a certain partnership among some 57 others, and accompanied by an affidavit of certain witnesses to the effect that they know him to be a merchant and not a laborer. If an affidavit of this kind were to be introduced in evidence, if your Honor please, they could just as well prove the guilt of this defendant and fire him out of this country on an affidavit signed by John Smith made to some other fact that might be pertinent to this record. This is a court of justice. In the Immigration Bureau they can act upon all sorts of papers—memoranda and other things—but in a court of justice we re-

quire evidence, and your Honor can plainly see that this is an *ex parte* declaration by another party, not ever shown to be the party they are discussing, concerning some facts that relate to him, which, if admitted, would prove facts which no one could disprove. Attached to this are certain letters and affidavits which certainly should not be introduced in a court of justice, including a letter by a Chinese inspector to the Collector of Customs at Boston, Massachusetts, stating various things concerning the photograph, the firm, the favorable character of the people who [82] are in the firm, that the firm of Sam Sing has 57 partners and carries a stock worth fourteen thousand dollars and appears to do good business and to be considered a *bona fide* mercantile firm. These are papers prepared evidently with the intention of establishing the mercantile status of somebody who wanted to leave the country and now they are sought to be introduced in evidence as *ex parte* declarations of third parties to prove facts against this defendant, and sworn to on the 20th of September, 1895, twelve years ago, two years before 1897.

The COURT.—What is your theory, Mr. District Attorney?

Mr. SCHOONOVER.—The purpose is not to prove the declaration of anybody except they appear to be a part of this particular file. We are not responsible for this man at 40 Harrison street; he was selected by the defense.

Mr. DOCKWEILER.—I would like to have your

(Testimony of Yee Chung.)

Honor read that whole thing. There is not a word said about whether he had a son or sons; there is no family history there or—

Mr. SCHOONOVER.—What I want to show is that this man that he selected as his father there at 40 Harrison street, as shown by the official records, could not have been at the time he says he went down there with him. That is the purpose of it.

The COURT.—Well, that would be pertinent if you had shown that. What do you say is the name of his father?

Mr. McNAB.—Yee Kim Sing (Shing?).

Mr. SCHOONOVER.—He says he does not know how to spell it.

Mr. DOCKWEILER.—But you understand that he refers to the English spelling of it.

Mr. SCHOONOVER.—Yes; he doesn't know whether it is Sing or Shing or what.

Q. (By the COURT.) Is this your father's name right here in Chinese characters (exhibiting document to witness)?

A. That is the name of my father, yes, sir. I don't know whether my father wrote it or not. [83]

Q. You don't know whether it is his signature or not? A. No, I do not.

Q. Did you ever see your father write his signature in Chinese characters?

A. My father was writing a letter—he was a good writer. This is not a good writer.

Q. Could your father write English?

A. He can sign his name in English. He was a

(Testimony of Yee Chung.)

good penman in Chinese.

The COURT.—What would be the English equivalent of that name, Mr. Interpreter?

The INTERPRETER.—Yee Kim Sing.

The WITNESS.—Yee Kim Sing.

Mr. McNAB.—Assuming that this affidavit were the affidavit of this man's father, how could it be introduced in evidence against the defendant when this defendant is not responsible for it, in a court of justice? It is an *ex parte* declaration of somebody, and how can it be introduced—as a matter of hearsay? The mere fact that it was filed with an immigration inspector or comes into his possession does not make it evidence. There is a tendency in the Immigration Department to consider any part of a paper that may bear on a question as a part of the record of files; but when appeal is taken to the District Court it must be a legal inquiry governed by judicial procedure and by rules of evidence. If evidence of this character were proper we might as well prove our contention by taking the affidavits, *ex parte*, of 40 witnesses from Boston to prove the contrary to be true. It is a matter we cannot possibly meet by cross-examination.

The COURT.—I do not know of any rule of evidence which would make it admissible. I do not know what the Department of Immigration may think about it. There could be no rule of evidence which could make it admissible. [84]

Q. (By Mr. SCHOONOVER.) You stayed in Boston after you came down there with your father,

(Testimony of Yee Chung.)

you say, three or four days before you went to Carnegie? A. Four or five days.

Q. When did you next see him then after you left Boston and went down to Carnegie?

A. I next met him in China.

Q. What year? A. K. S. 33.

Q. What month and date?

A. He was in China about the seventh month. That would be in August—

Mr. McNAB.—August or September, 1907, Mr. Brazie says.

The INTERPRETER.—Yes.

Q. (By Mr. SCHOONOVER.) That was, then, about ten years after you left him at Boston and went over to Carnegie? A. Yes.

Q. And when did you go to China?

A. I left there K. S. 33—

Q. Left where?

A. Seattle; that is, I sailed from Seattle on K. S. 33, the first month, 6th day.

Q. Would that be February or March, 1907?

The INTERPRETER.—Yes; somewhere along there.

Q. (By Mr. SCHOONOVER.) Then your father came how soon after that?

A. I understood he left Pittsburg in the middle of the fifth month and then went up there and shipped to China.

Q. And when did you see him in China—on what date? A. In the seventh month.

Q. And how long had you been there when he came, in China?

(Testimony of Yee Chung.)

A. Well, I reached home the second month of that year and he reached home the seventh month. [85]

Q. Where did you go when you got to China?

A. To my village.

Q. Is that where you first saw your father when he arrived? A. Yes, sir.

Q. And when did your father come back to America after that?

A. He never came back since then. I understand he didn't make out his paper to come back when he went the last time.

Q. And when did you come back?

A. I came back in Soon Hung the 1st; that would be 1909.

Q. Did you come from Hong Kong at that time?

A. Yes.

Q. And landed where here in this country?

A. San Francisco.

Q. On what boat? A. The "Manchuria."

Q. And did you make an application in 1914 for an investigation to enable you to go to China?

A. Yes, sir.

Q. Your application for investigation to enable you to go back to China was denied by the Commissioner of Immigration at San Francisco, was it?

Mr. McNAB.—I object to that as absolutely immaterial, the fact that it was denied. If they had any fact why it should be denied, they could produce it in this court. The fact that they did deny it is not evidence against this defendant.

The COURT.—What is the purpose of it?

Mr. SCHOONOVER.—Well, there has been a purpose throughout this hearing to show that at all times they accepted this man as being a native-born Chinese, and the record has gone in for that avowed purpose, and your Honor's attention especially called to the remarks of the Government agents in passing upon him favorably. [86]

The COURT.—No objection was made at any time.

Mr. SCHOONOVER.—No, but the statement was made by counsel for the Government that we had no objection to these going in upon the understanding that it would all go in. Now there has been a great effort here to talk about the best of good faith here and all that sort of thing, and I want to know right now if counsel do want to take the position that, having offered that for that avowed purpose, they are now going to object to us showing the exact status of this defendant at the time of his arrest.

Mr. McNAB.—If your Honor please, when Mr. Schoonover this morning stated—although I believe there was an equally great man of the same name—if I recall Mr. Schoonover's remarks when the matter was taken up this morning he said that they would wish to introduce the entire record. I said nothing, for the reason that those must be objected to as they come along. A record has been submitted to us here today, the typical immigration record. It consists of some matters that are doubtless material; it consists of letters, telegrams, suggestions inserted by an inspector to another inspector as to what he

thinks about certain matters; telegrams from within and without the United States in regard to certain investigations they have made, and a great mass of extraneous matter which is not evidence, but mere *ex parte* declarations of some inspector here or there in regard to certain features of the case and his views in regard to it.

Mr. SCHOONOVER.—We do not offer any of that.

Mr. McNAB.—Matters that actually relate chronologically or bear upon the question of whether or not this man is a native-born citizen of the United States we certainly have no objection to; but of course they must be matters which can be introduced in evidence. The point I make is this, if your Honor please: It is admitted by this witness that when he applied again in 1914 at San Francisco, after having been landed in 1909,— [87]

Mr. SCHOONOVER.—Last year.

Mr. McNAB.—Yes, shortly prior to his arrest,— he applied at San Francisco for reinvestigation with a view of going again to China, and he was denied the right to go. Now, reasons which an inspector may give in regard to it—

Mr. SCHOONOVER.—Well, let us go further than that if you are going to admit the record, and that there was an appeal from that to the Secretary of Labor and the appeal was affirmed. The findings of the Commissioner were approved.

Mr. McNAB.—That, if your Honor please, is not binding upon this court, nor is it evidence. I have

no objection to the Court knowing what it does show, because that does not go into the record. This record, let us assume, shows that an inspector at San Francisco took the legal view that the judgment of the Court in Vermont was not conclusive or not binding upon the Department, and that they had a right to go and investigate the matter themselves—

Mr. DOCKWEILER.—Pardon me. The inspector reported that he did not consider the record under regulation of November 5, 1913—that is, under circular of that date. Then it was conclusive on the subject of citizenship, your Honor.

The COURT.—You are telling me what this is all about in order to get the Court to rule that it is not admissible, which is a peculiar sort of a transaction. Much of this matter that has come in to-day appears to me to be incompetent, but no objection was made by the Government. Whether this man has passed through the barriers three or four or five or six times is immaterial. The question is, Is he a native born citizen? What somebody else may have done or thought or said is immaterial at this time.

Mr. SCHOONOVER.—I think that is true, and I thought what has gone in would have no effect on a decision by this Court. [88]

Mr. McNAB.—I have an authority on my desk to show that that ruling of the Commissioner in Vermont is absolutely conclusive and cannot be again inquired into.

The COURT.—That would depend on the primary question, as to whether or not this is the man.

Mr. SCHOONOVER.—That is the whole question here. We contend that this final refusal which was affirmed on appeal was based and the record shows it was based upon the insufficiency of the evidence to show that this was the man who was tried there in Vermont.

The COURT.—I do not think the acts of the Immigration people have anything to do here. If there is anything in the record to affect the question of the identity of this man, or to affect his actions or conduct, or tend to explain it, the situation is competent, otherwise not.

Mr. SCHOONOVER.—As far as this hearing is concerned, it doesn't make any difference, but if the record is going to be encumbered with the showing of the Government's agents favorable to this man, and the fact that this unfavorable action was subsequently is to be excluded strictly upon the technical grounds that no objection was made immediately at the time of its offer, I want now to insist that it was only permitted to go in without objection by the Government for the reason that I made preliminarily, at the outset of this hearing, the statement that those matters might go in showing the relations that this defendant had had with the Government for the purpose of handwriting, and I say now that I permitted it to go in with the intention of offering this in pursuance of that understanding, and unless we can now have admitted a record showing he was denied upon his application for pre-investigation the right to a return certificate enabling him to go to

China, and return, which shows the findings of the Commissioner upon the insufficiency of evidence [89] to show that he was the man who was before the Vermont court, was sustained finally by the Secretary of Commerce and Labor, and that that was the attitude of the Government towards him at the time he was arrested, that he was not the man.

Mr. McNAB.—How much of this do you want, Mr. Schoonover? There is about fifty pages.

Mr. SCHOONOVER.—No; I simply want what I have stated we want.

Mr. McNAB.—Will you kindly point it out?

Mr. SCHOONOVER.—We want the findings of the Commissioner, in the first place.

Mr. McNAB.—It seems to me that would be part of the Government's case and not proper cross-examination. We admit that he was denied the right to go to China.

The COURT.—Yes, it is part of the Government's case.

Mr. SCHOONOVER.—Will you admit at this time that he was denied the right because the Government held the insufficiency of his showing to the effect that he was the man who got the decree of the Vermont commissioner?

Mr. McNAB.—I think we can locate Mr. Edsall's report in the matter, your Honor. It is probably here. I have a copy of it.

Mr. McNAB.—The reasons given by Mr. Edsall in making his report, I think, is the strongest thing,

your Honor, and I take it that is what they really want.

(Counsel examining documents.)

Mr. SCHOONOVER.—Well, that is all right. I do not know that it is necessary to read it. It can be handed up to the Court and considered in evidence.

Mr. DOCKWEILER.—Well, I would like to read it, anyhow.

The COURT.—Do you want to admit it in evidence?

Mr. McNAB.—I understand the United States Attorney wishes that in evidence, and we have no objection, but we do not think it is relevant. [90]

The COURT.—It may be admitted.

Mr. DOCKWEILER.—I will read it now.

The COURT.—No, I will read it.

Mr. DOCKWEILER.—Now, that opinion sustains the contention I made, namely, that the rejection by the Immigration Service was because of the opinion that in view of the provisions of a circular issued—circular No. 5—that we do not think the proof was sufficient to show nativity. And by the way, we now ask, in view of the fact that the Commissioner has referred to that circular,—we would like to have a copy of the circular so that it can be put in.

Mr. Brazie, will you kindly produce a copy of that circular?

Mr. SCHOONOVER.—Wait until we get the attention of the Court.

(Court examines documents.)

Mr. McNAB.—Can we have some way of segregating that or have it copied by the reporter, as it is a pretty voluminous record?

The COURT.—The reporter can copy it into his record.

Mr. McNAB.—In conjunction with that, you will notice that Assistant Commissioner Edsall renders the opinion that he is not entitled to his papers for departure because of the failure of this judgment to be proved in accordance with a circular of November 5, 1914. Now, it seems to me that if this is to have any weight with the Court the Court should have a right to consider the provisions of this circular of November 5, and I would state to your Honor—and counsel on the other side, I am certain, will coincide with what I say—that on the 14th instant, nine days after the circular was issued, another circular was issued, which is a brief for the defendant in this case, and which sets forth the fact that these records are conclusive and sets forth all the authorities from the Supreme Court— [91]

The COURT.—Well, we will take it up, then, when the proof is offered.

Mr. SCHOONOVER.—We are not offering this to conclude the Court. It is purely an administrative or executive order, and it is only for the purpose of meeting the proposition that this man had been all the time recognized as a native citizen. That is all it is offered for. Now, I want to offer, in addition to this, the affirmation of that finding by the Secretary of Commerce and Labor.

Mr. McNAB.—I insist it is a part of the Government's case and not cross-examination, your Honor.

The COURT.—Well, I have so held a while ago.

Mr. SCHOONOVER.—But it would facilitate matters now while I have the instrument in my hand, to—

Mr. DOCKWEILER.—Now, that out of the way,—

Mr. SCHOONOVER.—Well, let us get this identified so that the reporter can get it in the record. It is on pages 14 and 13 of memorandum No. 12017, line 2844, dated March 13, 1914, and signed H. Edsall, Acting Commissioner.

Mr. DOCKWEILER.—Could we have that letter of November 5, 1914, page 3, that the Acting Commissioner refers to in his subpoena, Mr. Schoonover, please?

Mr. SCHOONOVER.—If the Court please, it is relevant to no issue in the case; it is some circular in the case that the Commissioner refers to there. The Government has no desire to enter into the matter for the purpose of precluding the Court at all, or insisting that the Commissioner's opinion was well or ill-founded, but simply to show that his application had been rejected.

The COURT.—Have you the circular they talk about?

Mr. SCHOONOVER.—I don't know whether I have or not.

The COURT.—Well, if you have, give it to them and let them look at it. [92]

Mr. DOCKWEILER.—He refers to circular issued November 5, 1913, and supplemental circular of November 14, 1913. I do not suppose it is there. It is their regular printed circular. I suppose Mr. Brazie knows where it can be found.

Mr. BRAZIE.—I am not the custodian of the records. Mr. Connell is the custodian of the records.

Mr. SCHOONOVER.—If we can procure it we will submit it to you.

Mr. McNAB.—That is entirely satisfactory.

Mr. DOCKWEILER.—And it looks as though we are now getting in a position where nobody will say anything in this case that will make the other fellow angry.

The COURT.—I hadn't noticed anything of that sort; if I had I would immediately have taken cognizance of it.

Mr. SCHOONOVER.—Will it be stipulated that the finding of this Acting Commissioner just admitted in evidence by stipulation here was affirmed by the Secretary of Commerce and Labor or by the Secretary of Labor?

Mr. McNAB.—I will look at the record, and if it was I will make no objection.

The COURT.—That is argument *ad hominem*, but I suppose it is proper to go in.

Mr. McNAB.—I wish you could see fit to put that in as part of your case, but I do not want to cripple you in the case if you want to put them in that way.

The COURT.—All right. Go on and cross-examine.

(Testimony of Yee Chung.)

Mr. SCHOONOVER.—Well, shall I introduce it at this time, then?

The COURT.—No; as part of your case.

Mr. SCHOONOVER.—All right.

Mr. McNAB.—All you want to prove is that that was affirmed, is it not?

Mr. SCHOONOVER.—Yes.

Mr. McNAB.—Well, we admit that. [93]

Q. (By Mr. SCHOONOVER.) These certificates that you had from Commissioner Johnson, where were they prepared or written?

Mr. McNAB.—We *we* object to that on the ground that the witness could not possibly know, as he testified that it was given to him afterwards, and he did not see it written.

Mr. SCHOONOVER.—I refer, for counsel's information, to his Exhibits "A" and "B."

(Last question read.)

Mr. McNAB.—The witness having testified that they were given to him afterwards in Boston, and that he did not see them written, he could not answer that.

The COURT.—Maybe not. He did not say that he did not see them written. Maybe he did see them written. The objection is overruled.

A. It was given by the Judge. My father gave it to me.

Q. (By Mr. SCHOONOVER.) Whereabouts?

A. In Boston.

Q. Did you see it before your father handed it to you? A. No.

(Testimony of Yee Chung.)

Mr. McNAB.—When he answered that question he undoubtedly had in mind the original certificate he lost on board the “Dakota.”

Mr. SCHOONOVER.—Well, what I mean is the certificate you had in Seattle. This certificate of Inspector Stewart. That is what I mean.

Q. Where did you first see that certificate, being Defendant’s Exhibit “A” in this case?

A. It was prepared by Mr. Donohue in K. S. 32—that is in 1902.

Q. And where was Mr. Donohue when he prepared it?

A. Why, he sent to Vermont to have it done.

Q. To have it signed, after he had prepared it?

A. Why, he got that paper that was originally given to me to make [94] this paper, and this paper was made from it and then sent to Vermont.

Q. (By Mr. DOCKWEILER.) Where was Mr. Donahue residing at the time?

The COURT.—Preaching Presbyterianism in Pittsburg.

Q. (By Mr. SCHOONOVER.) Ask him if he sent this prepared, to be signed, to Mr. Johnson, as appears there.

A. He got my photographs and got the paper that I gave him and made out the paper and sent it to him. The paper was handed to me in whole, like this, afterwards.

Mr. SCHOONOVER.—I believe that is all at this time.

Mr. DOCKWEILER.—I want to call your

(Testimony of Yee Chung.)

Honor's attention to the fact that the witness at different times since is named Yee Chong and Yee Chung. The bond in this case, I think, is signed Chong. This exhibit "A" is Chung. It is quite obvious upon an inspection of the papers, Mr. Schoonover, that the signatures are by the same party.

Mr. McNAB.—During the cross-examination of the witness he was asked concerning his replies to certain questions stated in these various examinations. I think there were three gone into. We would like to offer the entire examination of the applicant at this time, to show that when the entire record is taken together, is consistent, truthful, and is in conformity with his testimony here, that is, in accordance with the rule that *were* a portion of the examination is asked for we claim it is consistent to have the entire matter put in. There are some three or four pages of it.

The COURT.—I do not know of any such rule. They have not offered it in evidence themselves; they merely asked him if he made such statements, and he said yes, and that is an end of it.

Mr. SCHOONOVER.—It is not in evidence.

The COURT.—If they offered parts in evidence then you could offer the balance of it. [95]

Redirect Examination.

(By Mr. McNAB.)

Q. How many children have you?

Mr. SCHOONOVER.—I object to that as fully gone into and definitely stated. He has two chil-

(Testimony of Yee Chung.)

dren. The dates of their births and names are in the record.

Mr. McNAB.—It is not gone into. He stated that he had two who had been landed in this country.

The COURT.—The objection is overruled. Go on.

A. Four.

Q. (By Mr. McNAB.) You stated in answer to a question by Mr. Schoonover that you bought your ticket when you came over to Vancouver in Hong Kong. I understood you to say that you bought it at a Chinese store. Did I correctly understand you? A. Yes, sir.

Q. At that time where did the Chinese, desirous of taking a ship across the Pacific Ocean, buy their tickets? Did they buy them from the steamship company at all, or did they buy them from a Chinese store?

Mr. SCHOONOVER.—I object to that unless some foundation is laid.

Mr. McNAB.—I will prove the custom, your Honor.

Mr. SCHOONOVER.—I object to this witness testifying without laying a foundation.

The COURT.—Yes, the objection is sustained. Is there any controversy that he did buy it at the Chinese store?

Mr. SCHOONOVER.—Not at all.

Mr. McNAB.—I propose to show that all of these tickets were sold by brokers.

(Testimony of Lee Leung.)

The COURT.—Well, we will assume so.

Mr. McNAB.—That is all. The next witness is Lee Leung. [96]

Testimony of Lee Leung, for Defendant.

LEE LEUNG, a witness called on behalf of the defendant, having been first duly sworn, testified through the interpreter as follows:

Direct Examination.

(By Mr. McNAB.)

Q. What is your full name? A. Lee Leung.

Q. How do you spell it?

Mr. McNAB.—You had better spell it, I guess, Mr. Interpreter.

The INTERPRETER.—L-e-e L-e-u-n-g.

Mr. SCHOONOVER.—Leung, L-e-u-n-g?

The INTERPRETER.—Leung, L-e-u-n-g, yes.

Q. (By Mr. McNAB.) Where were you born?

A. I was born in China.

Q. When?

A. I was born in the ninth year of Hom Fung.

Mr. BRAZIE.—1859.

Q. (By Mr. McNAB.) When did you come to the United States? A. K. S. first; 1875.

Q. What is your business?

A. I have been a cigar maker.

Q. Did you know Yee Kim Sing, the man who Mr. Yee Chung testifies was his father? A. Yes, sir.

Q. Where did you know him?

A. In San Francisco when he was a storekeeper there.

(Testimony of Lee Leung.)

Q. And for the last 40 years where have you lived? A. In San Francisco.

Q. All the time? A. Yes, sir. [97]

Q. When did you first know Yee King Sing?

A. I first knew him I think about K. S. third or fourth. About that time. That was in 1873—1877 or 1878.

Q. Where was he living when you first got acquainted with him?

A. He was a storekeeper in Sacramento Street, No. 728.

Q. What kind of a store?

A. Chinese general merchandise, such as rice and oil and other stuffs.

Q. Did you know his wife?

A. When I first knew him he had a wife, yes.

Q. What was her name?

A. I was told that his wife was Wong Shee.

Q. Where did they live?

A. Just upstairs over the store in the same building.

Q. At 728 Sacramento Street? A. Yes, sir.

Q. Do you know anything about a baby being born to Yee Kim Sing and his wife?

A. Yes, about a couple of years afterwards there was a boy born to them.

Q. Did you see that baby?

A. I saw it when I went in there, about a couple of weeks old.

Q. About how often did you see it?

A. That was the first time I saw him, and then

(Testimony of Lee Leung.)

after the shaving then I saw him more often.

Q. Now, you have referred to the shaving. What do you mean by the shaving? Explain to the Court.

A. Well, the Chinese custom is this—that when a child is born, a month after that they shave him and give him a name.

Q. What kind of a surname do they have?

A. Well, then they first shave him their friends generally give the baby a present, and then the friends are invited to a feast [98] to celebrate that birth—or shaving.

Q. Did they have a feast to celebrate the shaving of this baby? A. Yes.

Q. Where was that feast held?

A. The feast was at the Hang Farlow restaurant.

Q. And what was the baby's name?

A. Well, they gave him the name Yee Chung.

Q. Were you living in San Francisco at the time Yee Kim Sing went away to China?

A. Yes, sir.

Q. About how old was this baby Yee Chung at that time? A. At the time he went to China?

Q. Yes.

A. About two years, I guess. The husband and wife and the boy.

Q. All went to China? A. Yes.

Q. Did you go to China yourself after that?

A. Yes, sir.

Q. When did you go to China first?

A. I went to China in the latter part of the year K. S. 18.

(Testimony of Lee Leung.)

Mr. McNAB.—That was in 1892?

Q. How many years was that after Yee Kim Sing and his wife and the baby, Yee Chung, had gone to China? About how many years?

A. Oh, more than ten years; about 11 or 12 years, I guess.

Q. About how long after Yee Kim Sing and his wife and baby went to China was it before Yee Kim Sing returned to San Francisco from China?

A. Only a few months.

Q. Now, when you went to China did Yee Kim Sing send anything by you? A. Yes.

Q. What was it? [99]

A. A letter and some Mexican money.

Q. How much money? A. \$100.

Q. Who was that money to be given to?

A. The mother of this Yee Chung, *Wah Shee*.

Q. That is Yee Kim Sing's wife? A. Yes, sir.

Q. When you went back to China did you go to the village where Yee Chung and his mother were living? A. Yes, sir.

Q. Did you see them both? A. Yes, sir.

Q. About how long did you stay in China on that trip? A. Over a year.

Q. When you left San Francisco under what status did you go—merchant or otherwise?

A. Merchant, because I was a member of Quong Chung Sing's store.

Q. During the year that you were in China about how often did you see Yee Chung and his mother?

A. Two or three times.

(Testimony of Lee Leung.)

Q. About how big a boy was *Lee Chung* when you left China to come back again?

A. About 14 or 15.

Q. Do you remember anything that happened on China New Year, 1893, in China, while you were in China?

A. Yes. I went over there on a visit, the same as a New Year call, to see them.

Q. To see whom?

A. Yee Kim Sing's wife and Yee Chung.

Q. Now, when did you come back to San Francisco? A. K. S. 20; 1894.

Q. Before leaving China for San Francisco did you call on Yee [100] Chung and his mother?

A. Yes, sir.

Q. What did you do while you were there?

A. Well, I simply went up there to see them, if they were well, if the family was well, and whether there was any letter sent back.

Q. And *when* you came back to San Francisco, did you not? A. Yes, sir.

Q. You know Yee Chung now, do you?

A. Yes.

Q. Is that the same person that you knew as a boy when you were visiting China as Yee Chung?

A. Yes, sir.

Q. When Yee Chung came on to San Francisco in 1909 did you see him then?

A. Yes, when he came back from China.

Q. Did you see him often at that time?

A. Yes.

(Testimony of Lee Leung.)

Q. Where did you visit with him?

A. I was told that Yee Kim Sing's son, Yee Chung, came back from China, and was staying in the Quong Chung Sing's store, and so I went there to see him.

Q. What number, do you remember?

A. 741 Commercial Street.

Q. 741 or 744?

A. I don't remember. Yes, about 744.

Q. About how often did you visit with him on that trip?

A. Well, I went to the store several times, and he came up to my room.

Q. Did you on these visits talk over the time you were in China when he was a boy? [101]

A. I asked him if the parents were still living and how were the family getting along and so forth.

Q. And were the parents still living?

A. Yes.

Q. When he came back from Pennsylvania this last time, did the witness see Yee Chung? That was in 1914.

A. Yes, sir. I saw him last year.

Q. Where did he visit with him there?

A. I met him on the street when I was out working.

Q. Did you visit with him often? A. Yes.

Q. In those times did he discuss with him the trip, at the time he saw him in China, and about his mother and father?

(Testimony of Lee Leung.)

The INTERPRETER.—You mean the last year?

Mr. McNAB.—Yes.

Mr. McNAB.—That is all.

Cross-examination.

(By Mr. SCHOONOVER.)

Q. What is your place of business in San Francisco?

A. At the present time I am working.

Q. At what business? A. Cigar making.

Q. Who are you working for?

A. The Comstock cigar factory.

Q. Where is their factory?

A. 434 Jackson Street.

Q. What was your business when you first knew Yee Kim Sing?

A. At that time I was a cigar-maker; just learning the cigar trade.

Q. Where were you working then? [102]

A. In Chinese cigar factories.

Q. And what was the first you knew of Yee Kim Sing—what date?

A. It was in K. S. three; 1877.

Q. There was he then when you first knew him?

A. He was engaged in business.

Q. What kind of business? Where was it?

A. General merchandise, such as rice and oil and other merchandise.

Q. At what street and number?

A. It was at Quong Wah Chung's store, 728 Sacramento street.

Q. And where were you working when you first

(Testimony of Lee Leung.)

met him there at that store?

A. I was working at a Chinese cigar factory, the Funk Lee factory.

Q. What street number was that?

A. Front Street.

Q. How far was that from where Yee Kim Sing's store was?

A. Well, Yee Kim Sing's store was up in Chinatown, several streets away from it.

Q. And where did you live while you were working down on Front Street? A. In Chinatown.

Q. How near to the store of Yee Kim Sing did you live?

A. Just in the same block, except that I was in the other side, corner of Commercial and Dupont Streets, in that Spanish building; and the other store was just around the other corner, in Sacramento Street.

Q. You say you were told that this woman was the wife of Yee Kim Sing. What do you mean by that?

A. Yes. Yee Kim Sing told me so.

Q. He said this woman was his wife?

A. Yes, sir. [103]

Q. Where did you first see the baby you say they had there?

A. Well, I went to the store, and then he told me that he was very glad, having a boy born to him, and he took me up to his residence, his room, to see the baby, and I saw his wife in care of the baby. I saw her there.

Q. In what year was that? A. K. S. 6.

(Testimony of Lee Leung.)

Mr. BRAZIE.—That is 1880.

Q. (By Mr. SCHOONOVER.) What month and day, if you know.

A. It was early, in the first of the year. The factories had not resumed working yet. I think it was either the 7th or 8th of the first month.

Q. Who else was in the store of Yee Kim Sing at that time when you saw the baby?

A. Well, the partners in that firm.

Q. How many partners did he have?

A. I don't know how many partners were there, but I knew of three, Yee Kim Sing, Yee Him Wah and Yee Kay. All I knew was three.

Q. Did those three Chinese work in the store with Yee Kim Sing at that time?

A. Yes, together there.

Q. Did those other three Chinamen have families?

A. I don't know.

Q. Did you know these other partners as well as you knew Yee Kim Sing at that time? Were you acquainted with all of them about the same?

A. Well, when I visited the store I knew them all.

Q. Where did these other partners live?

A. Why, I have heard that Yee Kay went to China and died there.

Q. No, but ask him if he knows where the other three partners lived at the time he saw this little baby there. [104]

A. I don't know. Perhaps they were living in the back room there.

Q. Were either of the other three partners mar-

(Testimony of Lee Leung.)

ried at that time?

A. I don't know whether they had any.

Q. Neither of the other three partners ever told you whether they were married or not?

A. No, sir.

Q. Neither of the other partners ever told you whether they had any children or not?

A. No, sir.

Q. Never told you where they lived?

A. No, sir.

Q. And you didn't know? A. No, sir.

Q. How long had they been partners with Yee Kim Sing?

A. I don't know how long they had been partners before I knew them, but up to K. S. 22, at the time when Yee Kim Sing sold his business.

Q. They were all partners together when you first knew Yee Kim Sing, were they? A. Yes, sir.

The COURT.—It is about 5 o'clock now, and we will take a recess until to-morrow morning at 10 o'clock.

(A recess was thereupon taken until Saturday, April 3, 1915, at ten A. M.) [105]

Saturday, April 3, 1915, 10 o'clock A. M.

LEE LEUNG, recalled.

The COURT.—Proceed with the evidence, gentlemen.

Mr. SCHOONOVER.—If your Honor please, in plaintiff's exhibit introduced yesterday, being memoranda on pages 13 and 14 of the file indented in the reporter's notes, reference is made to a Bureau

(Testimony of Lee Leung.)

letter of November 5, 1913, and further reference, in parenthesis, in the document in evidence, page 3. We find page 3 refers to page 3 of this same file, and in compliance with Mr. Dockweiler's request we submit the circular referred to under date of November 5, 1913.

Mr. DOCKWEILER.—Have you also the supplementary circular issued November 14; that is, the circular supplementary to the circular of November 5?

Mr. SCHOONOVER.—Well, I don't know about that. There is no reference to anything in the document—

Mr. DOCKWEILER.—May it please the Court, we at this time request the Government to produce for our inspection circular of November 5, 1913, and circular of November 14, 1913, supplementary thereto and a part thereof, for the purpose, first, of enabling us to examine the circular specifically referred to in the decision, that is now in evidence now as a part of the Government's case, and secondly, for the purpose of enabling us to ascertain whether the decision, in referring to circular of November 5, also referred to the supplement of November 14, 1913.

Mr. SCHOONOVER.—I do not know where he gets his reference to the November 14, 1913, circular. There is no reference to it in the document already introduced in evidence.

The COURT.—I don't either, and I am not worrying about it, because I don't intend to pay any attention to it. This case cannot be decided on circulars.

(Testimony of Lee Leung.)

Mr. SCHOONOVER.—Inasmuch as the document we did introduce referred to circulars, it may be considered as part of it, and that we tender, but nothing more.

The COURT.—All right. Proceed.

Mr. DOCKWEILER.—Exception.

Q. (By Mr. SCHOONOVER.) Do you recognize this photograph as being the photograph of anybody you know (exhibiting picture)?

A. No, I don't know this man.

Q. You never saw him? A. No.

Mr. SCHOONOVER.—This is the photograph heretofore introduced in evidence. It was admitted in evidence and heretofore submitted to the defendant.

Mr. McNAB.—My recollection is that it was offered for identification.

The COURT.—No, it was introduced in evidence, the photograph was, and admitted. He said it looked like his father, and for that reason I submitted it to be introduced in evidence.

Mr. SCHOONOVER.—That is all.

Mr. McNAB.—That is all. [107]

Testimony of Yee Ying Dock, for Defendant.

YEE YING DOCK, a witness called on behalf of the defendant, having been first duly sworn, testified through the interpreter as follows:

Direct Examination.

(By Mr. McNAB.)

Q. What is your name?

The INTERPRETER.—According to his own

(Testimony of Yee Ying Dock.)

dialect, that last name would be Ark. Sometimes it is called Tock, or Toc, or something of that sort.

Mr. SCHOONOVER.—That same confusion obtains in the names Sing and Shing, does it not?

Mr. McNAB.—Well, we will find out about that.

Q. How old are you? A. Fifty-one.

Q. Where were you born?

A. In San Francisco.

Q. Where? A. Sacramento Street.

Q. What number in Sacramento Street?

A. 741.

Mr. SCHOONOVER.—It seems probable this witness could talk English if he was born in San Francisco fifty-one years ago.

Mr. McNAB.—Well, it is very unsatisfactory, if your Honor please. I have conversed with him, but part of the time it is fairly intelligible and part of the time it is not.

The COURT.—Do you understand English?

The WITNESS.—I don't know. I couldn't answer all of it.

The COURT.—How do you know? You can carry on an ordinary conversation in English, can't you?

The WITNESS.—I know some of it, but I couldn't understand all of it.

The COURT.—Very well. Proceed. [108]

Mr. DOCKWEILER.—He commenced before the Commissioner to testify and each side at times could not understand him, so we concluded to have an interpreter.

(Testimony of Yee Ying Dock.)

Q. (By Mr. McNAB.) What was your father doing in San Francisco at that time?

A. He was a merchant.

Q. What was the firm name?

A. The Hung Wo store.

Q. Where was that store situated with regard to the store where Yee Kim Sing worked?

Mr. SCHOONOVER.—I object to the question as assuming the witness knows anything about Yee Kim Sing.

Mr. McNAB.—I will withdraw the question.

Q. Did you know Yee Kim Sing? A. Yes, sir.

Q. Where did Yee Kim Sing live?

A. Just across the street.

Q. Where was your father's store located with regard to the store where Yee Kim Sing worked?

A. Diagonally across the street.

Q. Where you in San Francisco at the time a baby was born to the wife of Yee Kim Sing, or had you left for China?

Mr. SCHOONOVER.—I object to that as assuming that there was a baby born and that the witness left for China. It is paving the way for the witness to testify.

Q. (By Mr. McNAB.) Have you always lived in San Francisco, or have you been in China?

A. I have been to China.

Q. When did you first go to China?

A. K. S. 5; 1879.

Q. Before you left for China in K. S. 5, did you know the wife of Yee Kim Sing?

(Testimony of Yee Ying Dock.)

A. Yes, sir. [109]

Q. Now, had Yee Kim Sing and his wife any child or children at the time you left for China in K. S. 5?

A. No.

Q. After you went to China in K. S. 5 what was the first time you saw Yee Kim Sing? A. K. S. 7.

Mr. BRAZIE.—That is in 1881.

Q. (By Mr. McNAB.) Where? A. In China.

Q. Where did you see him? A. In the village.

Q. What is the village? A. Chow Duey.

Q. When Yee Kim Sing came back to China and to this village was his wife with him? A. Yes.

Mr. SCHOONOVER.—Now, I object to that, before it is answered. It appears that the witness saw them there, and counsel asks him, after they came back there did he see them, assuming they came back. Arrived there from any point.

(Last question read.)

Mr. SCHOONOVER.—I object to it as not showing that the witness knew he ever came back there.

The COURT.—He said he saw him there. The objection is overruled.

Mr. SCHOONOVER.—No; he said he saw him in San Francisco in 1879, and that he himself went to China in 1881.

The COURT.—And he saw him in this village in China.

Mr. SCHOONOVER.—Yes, I am wrong.

(Last question read.)

A. His wife and a boy.

(Testimony of Yee Ying Dock.)

Q. (By Mr. McNAB.) About how big and how old was he?

A. Well, about two years old. [110]

Q. How often did you see Yee Kim Sing, his wife, and this boy while you were in China?

A. Why, the defendant's mother and father came over to my house almost every month, and I went over there to their house quite often.

Q. How long did you remain in China?

A. About eight years.

The WITNESS.—No; about ten years; nearly ten years.

Q. (By Mr. McNAB.) Now, during this ten years that you remained in China, about how often did you see this boy?

A. Well, I went over to their house several times in a year and they came over to my house almost monthly.

Q. What was the boy's name? A. Yee Chung.

Q. Can you say whether this Yee Chung was the same person that you knew there as that boy?

A. Yes, sir.

Q. About how long, if you remember, did Yee King Sing remain in China on that trip.

A. A few months.

Q. Where did he go then? Do you know?

A. He came back to San Francisco.

Q. After he left for San Francisco did you still continue to visit back and forward with his wife and with Yee Chung?

A. Yes, sir; very often, because it was during my

(Testimony of Yee Ying Dock.)

time in China I was visiting the boy and they visited me almost monthly.

Q. Before Yee Kim Sing came on to China—I have forgotten the date you gave in Chinese, but in 1881,—do you know anything about your father getting a letter from Yee Kim Sing about the birth of a boy?

Mr. SCHOONOVER.—Objected to as no proper foundation laid, incompetent, irrelevant and immaterial, and hearsay. [111]

The COURT.—In what respect has no foundation been laid?

Mr. SCHOONOVER.—Well, that may not be the proper objection at this time, but it is incompetent, irrelevant and immaterial and hearsay.

(Last question read.)

The COURT.—Yes, that would seem to be hearsay.

Mr. McNAB.—Unless it goes in under the head of pedigree, your Honor.

The COURT.—Well, pedigree is limited to statements made by one deceased in reference to the birth or ancestry or pedigree, but I hardly believe it is included within the scope of a missive sent across the water.

Mr. McNAB.—I will withdraw the question.

Q. (By Mr. McNAB.) After you arrived in China did you receive a letter that was written by Yee Kim Sing to your father in regard to his family affairs in San Francisco?

Mr. SCHOONOVER.—Objected to as incompetent, irrelevant and immaterial. It does not appear

(Testimony of Yee Ying Dock.)

that it would tend to establish or disprove any issue in the case.

Mr. DOCKWEILER.—It is preliminary.

The COURT.—Yes, it is hearsay. The objection is sustained. It is incompetent.

Mr. McNAB.—And without intending in the slightest degree to interfere with your Honor's ruling, but in order to get the entire question in the record, I will amplify the question in this respect:

Q. After you had gone to China did you see letters written by Yee Kim Sing to your father announcing the birth of a boy and the name that they had given him?

Mr. SCHOONOVER.—Objected to as incompetent, irrelevant, and immaterial, and calling for hearsay testimony.

The COURT.—The objection is sustained.

Mr. McNAB.—And we except.

Q. Now, did you, while in China, and shortly after you arrived there, see any correspondence between Yee Kim Sing and your father at all?

Mr. SCHOONOVER.—Objected to on the same grounds as the [112] objection made to the former question.

The COURT.—The objection is sustained.

Q. (By Mr. McNAB.) You say that Yee Kim Sing returned to San Francisco a few months after he arrived there. Now, when did you come back from China? A. I returned in K. S. 16.

The INTERPRETER.—That would be 1890.

Q. (By Mr. McNAB.) When you returned to

(Testimony of Yee Ying Dock.)

America where did you go? What part of America did you go to? A. To San Francisco.

Q. Did you see Yee Kim Sing on your return?

A. Yes, sir.

Q. Did you afterwards return to China, again, the second time? A. Yes, sir.

Q. In what year? A. K. S. 21; 1895.

Q. What month?

A. I was passing the Chinese New Year on board the steamship and reached Hong Kong on the Chinese New Year—that is, after the Chinese New Year; it would be somewhere, I think, in January, when I left there, in 1896.

Mr. BRAZIE—February 13, 1896.

Mr. SCHOONOVER.—He was on the boat, then, at that time.

The INTERPRETER.—The witness says that he left the port at Tacoma.

Q. (By Mr. McNAB.) Now, while you were in China on this trip did you see Yee Chung?

A. Yes, sir.

Q. This same man here? A. Yes, sir.

Q. The same man that you saw as a little boy in China when you were there the first time? [113]

A. Yes, sir. He has about the same features, yes sir.

Q. And the same Yee Chung that came on with Yee Kim Sing and his wife from San Francisco?

Mr. SCHOONOVER.—We object to that. There is no evidence at all that this witness knows any-

(Testimony of Yee Ying Dock.)

thing about their coming-together place where he saw them.

(Last question read.)

Mr. SCHOONOVER.—That is what I object to.

Mr. McNAB.—He testified to that before.

The COURT.—Yes. The objection is overruled.

A. Yes, sir, because when they arrived there his parents said that was their son.

Q. (By Mr. McNAB.) Now, while you were in China on this trip in 1896 how long did you remain in China? A. One year and eight months.

Q. During the time you were there did anything happen in regard to Yee Chung that you remember?

A. At that time he married, in the latter part of that year, K. S. 22.

Q. Now, before you left China, had anything further happened in regard to Yee Chung that you remember?

A. Well, there was a boy born to him in K. S. 23, and I partook of the feast which he set to celebrate his boy's birth.

Q. How do you know that Yee Chung was married when you were back there?

A. Well, I was invited to the marriage feast.

Q. You say you were invited to the marriage feast; did you attend the marriage? A. Yes.

Q. After your return from China did you again return to that country?

A. Yes, sir, I returned to the United States via the port of Tacoma. [114]

Q. When did you say you returned to China the last time?

(Testimony of Yee Ying Dock.)

A. The last time, K. S. 33; that is 1907.

Q. At that time did you see Yee Chung's wife?

A. Yes, sir.

Q. And his children? A. Yes, sir.

Q. Where did you see the family?

A. In Chow Duey village.

Q. About how often did you see them while you were back there this last trip?

A. I have been to his place, that is, I visited his family several times, and they came over to my house several times.

Q. Now, after Yee Chung came back to the United States do you know where he has been living?

A. Yes; in Pittsburg.

Q. How do you know it?

A. By correspondence.

Q. With Yee Chung personally?

A. Yes, sir; two or three times a year.

Q. What is your business in San Francisco?

A. Merchant; Chinese drugs and medicine.

Q. How long have you been in that business?

A. Over three years last past.

Q. Where is your business located?

A. In Dupont Street.

Q. What number? A. 830.

Q. How large a store is that?

A. A good size store.

Q. Have you always been in business by yourself since you have been in San Francisco?

A. Yes. [115]

Q. At one time were you a registered voter of San Francisco?

(Testimony of Yee Ying Dock.)

A. I was registered in K. S. 17; that is one time.

Mr. BRAZIE.—That is in 1891.

Q. (By Mr. McNAB.) Any other time besides K. S. 17?

A. To vote, that is one time, K. S. 17, the last part of the year.

Q. Did you vote? A. Yes, only one time.

Mr. McNAB.—That is all.

Cross-examination.

(By Mr. SCHOONOVER.)

Q. What boat did you go to China on the first time?

A. I forget the name of that ship; it was a very small ship.

Q. Where did you sail from in this country?

A. San Francisco.

Q. Where did you land in China?

A. Hong Kong.

Q. That was in 1879, was it? A. Yes.

Q. What month did you leave the port of San Francisco in 1879? A. The fifth month.

Q. Do you remember the day?

A. No.

Q. (By Mr. McNAB.) The fifth month Chinese or English? A. Chinese.

Q. (By Mr. SCHOONOVER.) What name did you sail under from San Francisco in 1879 to Hong Kong?

A. That is the only name I have always had.

Mr. SCHOONOVER.—Yee Ying Ark.

The INTERPRETER.—Yee Ying Ark, yes.

(Testimony of Yee Ying Dock.)

Mr. SCHOONOVER.—Do you say that that sometimes is spelled D-o-c-k, his last name? [116]

The INTERPRETER.—That is my explanation. Sometimes they do spell it D-o-c-k.

Q. (By Mr. SCHOONOVER.) Ask him how he spells his last name.

A. I don't remember how it was spelled before.

Q. Ask him if he remembers the examination here before Commissioner Williams in this same case in which he testified last August.

A. Yes, sir.

Q. Ask him if he remembers that he was asked by Mr. Dockweiler, his counsel, what his name was, and he answered "Yee Yin Dock."

A. Yes, Yee Yin Dock.

Q. And Mr. Dockweiler then asked him: "How do you spell that?" and he answered, "Y-e-e Y-i-n D-o-c-k."

A. I don't know whether—I might have spelled it that way.

Q. And then Mr. Dockweiler spelled "D-o-c-k"? and you said, "Yes, sir."

A. Yes. He said—asked me, and I said yes.

Q. And then Mr. Dockweiler said, "Capital D"? And you said "Capital D."

A. Well, because I repeated after him.

Q. What boat did you come back on when you returned from China, after you went over in 1879?

A. I came back in 1890 on the steamship "Oceanic."

Q. And landed where in this country?

A. In San Francisco.

(Testimony of Yee Ying Dock.)

Q. What month did you land in San Francisco on the "Oceanic"?

A. I arrived, I think it was the fourth day of the fifth month. I am not certain, but it was near that time.

Q. That was in 1890, you say? A. Yes, sir.

Mr. McNAB.—The fourth day of the fifth month of what? [117]

The INTERPRETER.—That would be the latter part of June, I think.

Mr. McNAB.—Yes, but what year was it?

The INTERPRETER.—1890.

Q. (By Mr. SCHOONOVER.) Then where did you live in this country from 1890 until 1895 when you returned to China again? A. Yes, sir.

Q. Where did you live, I say?

Q. Now, I stayed in San Francisco up to about the first month of the 18th year, 1892; from there I went to Denver and stayed there about ten months; then I went to Florida.

Q. I will ask you if you remember in the examination heretofore before Commissioner Williams that your counsel, Mr. Dockweiler, asked you "How long did you remain in Denver?" And you answered, "I lived in Denver pretty near ten years."

A. I said ten months.

Q. And then Mr. Dockweiler said, "Ten years?" and you said, "Uh-huh."

A. No, I said "ten months."

Q. And did Mr. Dockweiler say ten months when he asked you the question the second time?

(Testimony of Yee Ying Dock.)

A. I forget how he asked me, but I resided there only ten months.

Mr. McNAB.—I notice also the reporter's notes say Tampa, Colorado, which should be Tampa, Florida.

Mr. DOCKWEILER.—For instance, here is a question: "Now, have you lived in San Francisco ever since Kuong Suey 23?

A. —Yes, I lived there a few months"; and then the word "Colorado" follows.

Mr. SCHOONOVER.—It appears here he said he had lived in Denver ten years, and his counsel asked him, "Ten years?" and he said, "Uh-huh," and his answer in the affirmative is just as he gave it—"Uh-huh." [118]

The COURT.—Yes, I appreciate all of that.

Mr. DOCKWEILER.—No, it is "Oohoo."

The COURT.—There are lots of people that are not infallible, and reporters are among them—present company not excepted. Go on.

Q. Had you lived anywhere except San Francisco from 1879, the date of your birth, until you made your first trip to China? A. No.

Q. Did you live anywhere between 1890 when you returned to San Francisco from China to 1895 when you made your second trip to China except San Francisco and Denver?

A. From there I went to Tampa, Florida.

Q. And how long were you in Tampa, Florida?

A. Nearly three years; almost three years.

Q. Then where did you go from Tampa?

(Testimony of Yee Ying Dock.)

A. I visited at Durant two months. My permanent headquarters was Denver. They have got lots of oranges down there. It was in the orange groves.

Q. Well, how much time did you spend at this town of Durand, or whatever it is?

A. About two months.

Q. And from where did you go from there?

A. Went back to Tampa.

Q. And where did you go from Tampa?

A. I remained there until I started for China.

Q. And where did you start for China? That was in 1895, I mean.

Mr. McNAB.—No, 1896, was it not?

A. I took the train to Savannah and then from there I shipped to New York and from New York to Tacoma.

Q. What boat was it you took at Tacoma for Hong Kong?

A. It was an old ship; something like "Hen Kow," but it was an old ship. [119]

Q. What date did it leave Tacoma?

A. It was in the latter part of the 12th month, because we passed Chinese New Year's aboard ship.

Q. The latter part of the 12th month would be what year in Chinese? A. K. S. 21.

Q. You were on board this boat on the Chinese New Year? A. Yes.

Q. Is that February 18, 1896?

Mr. McNAB.—Mr. Brazie informs us that Chinese New Year, which is a variable date, was on the 13th of February in 1896.

(Testimony of Yee Ying Dock.)

Q. (By Mr. SCHOONOVER.) And they you stayed in China how long?

A. One year and eight months.

Q. And then where did you sail from in returning to this country?

A. I came back to Tacoma.

Q. From Hong Kong? A. Yes, sir.

Q. On what boat? A. On the "Victoria."

Q. What date did you leave Hong Kong?

A. It was in the eighth month, but I have forgotten the date.

Q. On what date did you arrive in Tacoma?

A. The ninth month.

Q. The ninth month of what year?

A. K. S. 23; 1897.

Q. Then you went back to China again in 1907?

A. Yes, sir.

Q. Where did you sail from at that time to China?

A. From San Francisco.

Q. Where did you land in China?

A. Hong Kong. [120]

Q. On what date did you sail from San Francisco?

A. It was the 7th day of the 11th month of that year.

Mr. BRAZIE.—That is December 10, 1907.

Q. (By Mr. SCHOONOVER.) And on what boat? A. The "Korea."

Q. And you remained in China how long at that time? A. Four years.

Q. And you got back to this country in 1911 or 1912? A. In 1911.

(Testimony of Yee Ying Dock.)

Q. Have you been in this business, as you say, of a Chinese druggist all the time since you returned to San Francisco the last time? A. No.

Q. What did you do before you went into this drug business? A. Laundry work.

Q. Who did you work for there?

A. Oh, I misunderstood. After I came back I became a storekeeper, but before that I was a laundry-man.

Mr. McNAB.—Did he say he misunderstood?

The INTERPRETER.—“I misunderstood.”

Q. (By Mr. SCHOONOVER.) During your stay in China from 1907 until 1911 did you visit the family of the defendant? A. Yes, sir.

Q. Who did you visit there—what members of the family. A. I saw him, his parents, his wife.

Q. Was the defendant himself there when you returned to this country in 1911?

A. No, he was not, but was over here.

Q. What ship did you return on at that time in 1911? A. The “Chiyo Maru.”

Q. What was the date when you landed in San Francisco in 1911?

A. I arrived on the 25th day and landed on the 27th of the [121] seventh month. I arrived Saturday and landed Monday, as I remember it.

Mr. BRAZIE.—1911.

Q. (By Mr. SCHOONOVER.) What business were you in in Denver? A. Laundry work.

Q. Working for somebody else? A. Yes, sir.

Q. What business were you in in Tampa?

(Testimony of Yee Ying Dock.)

A. I was doing laundry work, one part, and then the other side I had some merchandise.

Q. Working for somebody else in Tampa?

A. No; I conducted a business myself.

Q. You had a laundry and mercantile business, then, in Tampa? A. Yes, sir.

Q. Whereabouts?

A. On Seventh Avenue, Between Fourteenth and Fifteenth Street.

Q. What number was your place on Seventh Avenue? A. I don't remember the number now.

Mr. SCHOONOVER.—That is all.

Mr. McNAB.—That is all. Those are all the witnesses we have present, your Honor. I understand the Government has some witnesses it would like to produce at this time. There is no objection.

Mr. SCHOONOVER.—All right; we have.

Mr. DOCKWEILER.—May it please the Court, in order to complete that opinion introduced by the Government and in which the defendant herein was denied the right to secure a certificate before leaving our country in March of last year, the circular referred to in the opinion ought to be a part—that is, ought to be read into the record or become a part of the record, because it is a part of the opinion, and if there is no objection, it is stipulated that the circular dated November 5, [122] 1913, of the Department of Labor, signed by A. Caminetti, Commissioner General, has been read into the record.

Mr. SCHOONOVER.—Yes.

Mr. DOCKWEILER.—In connection with the opinion that you introduced.

(Testimony of Yee Ying Dock.)

Mr. SCHOONOVER.—Yes. No objection to that.

The COURT.—All right. The reporter has the stipulation.

Mr. DOCKWEILER.—Your Honor will recollect that the defendant presented the certified copy of the proceedings before the Commissioner in Vermont, but did not present a transcript of the testimony, and evidently without a transcript of the testimony they would not regard the certified copy of the judgment as sufficient.

Mr. SCHOONOVER.—How is that?

Mr. DOCKWEILER.—To get that circular, the administrative officer passing upon the request of the defendant in March, 1914, would not regard the certified copy of the Commissioner's record and judgment unless there accompanied such certified copy a complete transcript of the testimony adduced before the Commissioner.

Mr. SCHOONOVER.—Then in that connection, if your Honor please, we offer a certified copy of the record before that Commissioner, certified to be complete, which shows that there is no transcript of any testimony included in it.

Mr. McNAB.—Does it differ in any respect from the one already in evidence?

Mr. SCHOONOVER.—Yes, it does.

Mr. McNAB.—In what respect?

Mr. SCHOONOVER.—Well, this is officially certified, and there are some minor differences; but not material.

Mr. McNAB.—Is the other one certified?

(Testimony of Yee Ying Dock.)

Mr. SCHOONOVER.—No, I don't think the other one is.

Mr. McNAB.—Yes, here is a certificate of George E. Johnson, [123] United States Commissioner, with a seal (handing paper to counsel).

Mr. SCHOONOVER.—The certified copy we are offering contains the docket entries as well as what appears in your certified copy.

Mr. McNAB.—Yours appears to be a certificate from the docket clerk of the district, certifying that these are certain docket entries—

Mr. DOCKWEILER.—Well, read the certificate.

Mr. McNAB.—The certificate seems to be as follows:

“I hereby certify that the foregoing is a true copy of the docket entries in the case of the United States vs. Yee Chung, as appears by the dockets of former U. S. Commissioner George E. Johnson, Jr., returned into court by him at the expiration of his term of office and now remaining at this office.” I am only asking for information in what respect it is different.

Mr. SCHOONOVER.—Well, it is a certificate as to docket entries, and yours does not include the docket entries.

Mr. McNAB.—Well, is there any conflict between the two certificates?

Mr. SCHOONOVER.—Oh, I don't know; I don't care to pass upon that now.

Mr. McNAB.—Well, it is only for information, be-

(Testimony of Arthur Leigh Jolliffe.)

cause I cannot read it at this time.

The COURT.—All right; it will be admitted.

The CLERK.—It will be U. S. Exhibit 2. [124]

Testimony of Arthur Leigh Jolliffe, for Plaintiff.

ARTHUR LEIGH JOLLIFFE, a witness called on behalf of the plaintiff, having been first duly sworn, testified as follows:

Direct Examination.

(By Mr. SCHOONOVER.)

Q. What is your name?

A. Arthur Leigh Jolliffe.

Q. Where do you reside?

A. Vancouver, British Columbia.

Q. What is your occupation?

A. Dominion Immigration Agent and controller of Chinese Immigration.

Q. Of British Columbia?

A. For Vancouver, British Columbia.

Q. How long have you occupied that position?

A. For five months.

Q. How long have you been in the public service in Canada? A. For a year prior to that.

Q. In your present position I will ask you if you are custodian of the manifests showing the landing of passengers at the port of Vancouver, British Columbia, during the years 1907 and 1908 or portions of those years. A. I am.

Q. Have you such manifest with you?

A. Did you say 1907?

Q. 1897, I mean, and 1898.

(Testimony of Arthur Leigh Jolliffe.)

A. Yes. And I have those papers with me.

Q. Covering what period of time in those years?

A. From October, 1897, to January, 1898.

Q. And what date in those two months?

A. From the 20th of October, 1897, to the 12th day of January, 1898. [125]

Q. Does the manifest you have include the manifest showing the passengers landed?

Mr. McNAB.—Objected to as leading and suggestive.

The COURT.—The objection is overruled.

Mr. SCHOONOVER.—Well, I will withdraw it anyhow.

Q. Does it contain a manifest of the landings of the ship "Empress of Japan"?

A. Yes, on two occasions.

Q. And of what dates?

A. October 20, 1897, and January 12, 1898.

Q. Was there at that time, do you know, any boat known as the "Emperor of Japan"?

A. Not that I am aware of.

Mr. McNAB.—Now, is there any contention about that? Because throughout the immigration records at San Francisco, it is repeatedly stated by the immigration officials, notwithstanding that statement, that the defendant always stated "Empress of Japan." At least six times it is recited by the immigration officials that he stated "Empress of Japan." Now, is there any contention that that record is correct, the word "Emperor" in view of the fact that the immigration officials recite repeat-

(Testimony of Arthur Leigh Jolliffe.)

edly that he said "Empress"?

Mr. SCHOONOVER.—What is your theory?

Mr. McNAB.—I have no theory. I would like to know what yours is.

Mr. SCHOONOVER.—Is it your contention that the witness says "Empress" or "Emperor"?

Mr. McNAB.—We have no contention about it. There is your record. I would like to know what you are getting at.

The COURT.—Well, apparently he has said both, so both of you can reach such conclusions as you desire.

Mr. McNAB.—My contention being that notwithstanding on one occasion before the Commissioner he is reported to have said the word "Emperor," that all through these immigration officials' [126] records for years and years he is recited to have said "Empress," and they so state, and they check it up and prove the date and everything else.

Mr. SCHOONOVER.—Very well. We are willing to consider it the "Empress."

Mr. McNAB.—In this record here there seems to be several of those things about which there is some dispute.

Q. (By Mr. SCHOONOVER.) Those two dates are the only two dates in which the "Empress of Japan" landed at the port of British Columbia?

A. They are.

Q. You have the manifest, you say, with you, at this time? A. Yes, sir.

Q. What Chinese persons were landed from that

(Testimony of Arthur Leigh Jolliffe.)

boat October 20, 1897, as shown by the manifest?

A. Well, there were a number of them.

Q. How many, if the manifest discloses?

A. On the "Empress of Japan" in October, 1897?

Q. Yes, October 20.

A. There were 305 on that date.

Q. Among them were there any persons named Yee Chung? A. There were.

Q. How many? A. Two.

Q. What is the description as shown by the manifest of the two Yee Chungs?

Mr. McNAB.—Two Yee Chungs on October 20?

Mr. SCHOONOVER.—Yee Chungs.

Mr. DOCKWEILER.—I don't know, your Honor. If there is any record that they desire to introduce, after identification of the record the records could be introduced. The record speaks for itself. I don't know that it is proper for the *witness* [127] *testify* to what the record contains.

The COURT.—Well, it is a record of another government over which we have no control and no right to assume or attempt to control.

Mr. SCHOONOVER.—We do not want to keep it here. You can verify his statements from it.

Q. The question is, what is the description of the two Chinese Yee Chung, the name and description, that appears upon the manifest, landing there October 20, 1897?

A. Yee Chung, age 33; height, 5 feet 4; pit each corner of mouth; 5 pits left jaw. That is one of them that went through Canada to Mansonville.

(Testimony of Arthur Leigh Jolliffe.)

Q. (By Mr. DOCKWEILER.) Well, where did you find that statement? Where is Mansonville?

A. (Witness points.)

Q. (By the COURT.) Where is Mansonville?

A. Mansonville, Quebec (pointing).

Q. (By Mr. DOCKWEILER.) Have you ever been there? A. To Mansonville?

Q. Yes. A. No.

Q. How far is Mansonville from the city of Quebec, so far as you know?

A. Well, I couldn't give you that information.

Q. How far is it from Montreal?

A. Well, it is just three or four hours' run from Montreal, I think.

Q. What is it? A junction of what?

A. It is a port of exit, an immigration port of exit.

Q. A Canadian port of exit into the United States?

A. Yes.

Q. Near Montreal? [128] A. Yes.

Q. In other words, that is the Montreal *court* of exit to the United States?

A. No, Montreal is a port itself. An immigration port.

Q. Oh, that is the port by sea? A. Yes.

Q. But not by land?

A. No. This is one of the ports by land.

Q. (By Mr. SCHOONOVER.) What is the nativity of that Yee Chung shown by the manifest?

A. He is a merchant and his birth place is Sem Ning.

Q. What country?

(Testimony of Arthur Leigh Jolliffe.)

A. That would be China. The second one, Yee Chung, 38; height, 5 feet 1; merchant; scar on right eyebrow; scar on nose.

Q. What nativity?

A. It doesn't say. Manifested from Vancouver, British Columbia, to North Portal.

Q. Where is North Portal?

A. In the province of Saskatchewan, I think. It is one of the border ports.

Q. There is also an American port on the other side?

A. There is an American port called Portal, I think.

Q. In North Dakota, do you know?

A. Yes, I think it is.

Q. (By the COURT.) What were the ages of those two Chinese again?

A. The first one 33 and the second one 38.

Q. (By Mr. SCHOONOVER.) Now, I will ask you if there was any Yee Chung, or Chong, landed on January 12, 1898.

A. On that same boat, the "Empress of Japan"?

Q. Yes, the "Empress of Japan." [129]

A. No.

Q. How many Chinese do you say were landed at Vancouver on October 20, 1897, including the two Yee Chungs? A. Three hundred and five.

Q. (By Mr. McNAB.) How many on the second boat? A. One hundred and seventy-seven.

Mr. SCHOONOVER.—That is all.
(By Mr. McNAB.)

(Testimony of Arthur Leigh Jolliffe.)

Cross-examination.

Q. Your experience in the Dominion service relating to immigration dates back about one year and five months from the present time? A. Yes.

Q. Prior to that time, what were you engaged in doing?

Q. I was engaged in the railroad service, with the Canadian Pacific Railway.

Q. In what capacity? A. In a clerical capacity.

Q. Could you make it a little more specific than that?

A. I was chief clerk for the American superintendent on the Atlantic Division.

Q. Stationed where?

A. At Macadam Junction; headquarters was at Macadam Junction.

Q. That was in what part of the Dominion?

A. New Brunswick.

Q. That was on the extreme eastern coast?

A. Yes.

Q. Had you prior to the time you entered the Dominion service in the Immigration Department had any experience with Chinese? [130]

A. No.

Q. Had you prior to that time had any familiarity with Dominion methods in regard to the handling of immigrants? A. No.

Q. Since 1879, new regulations have been promulgated by the Dominion Government, have they not, relative to the incoming of aliens?

A. That I cannot answer.

(Testimony of Arthur Leigh Jolliffe.)

Q. You are not familiar with the regulations which govern the entry of aliens at the time you are now speaking of according to your record?

A. Other than the handling of manifestations, which is the same as at the present time.

Q. Well, you were not present in that part of the country at that time, were you? A. No.

Q. Do you know anything concerning the manner in which names are given to the ship companies at the port of departure in China, at Hong Kong, at that time? A. No.

Q. Do you know that at that time and until about ten years ago all tickets for Chinese passengers were delivered over to brokers who simply subscribed for the number that they thought they could sell, and they simply supplied names to the shipping companies up to the extent of the number that they were able to sell? Do you know that?

A. No, I do not.

Q. You don't know one way or the other concerning it? A. No.

Q. Now, have you been informed, or do you know, that the selling of these tickets up to the period of ten years ago when the regulations were changed by the Government—that up to that [131] time the tickets for Chinese passengers departing from Hong Kong were sold in the market like exchange, one day up and one day down, in accordance with the demand for tickets, and that the brokers simply gave in the allotted number of names to the vessel?

A. I didn't know that.

(Testimony of Arthur Leigh Jolliffe.)

Q. You have had no occasion, of course, have you, to familiarize yourself with matters relating to the selling of passages at the period fixed by these manifests?

A. No, other than referring to records within those dates.

Q. You yourself have no personal familiarity with the way in which the manifests were prepared aboard ship at the time these records were made?

A. Not the manifests prepared on board the ship. The manifests on arrival at the port.

Q. These manifests to which you now refer were made at what port?

A. Which manifests do you refer to?

Q. The ones you have presented here to-day.

A. The first manifest is prepared on the ship and the second one is prepared by the Canadian immigration officials.

Q. Is the second manifest prepared a copy from the one prepared on the ship?

A. No, it is not.

Q. By whom is the one prepared at the port of entry?

A. By the Canadian immigration authorities.

Q. At that time what staff had they for the purpose of preparing these—how large a staff?

A. I couldn't answer that question.

Q. Do you know how many men were required to handle these 305 Chinese?

A. How many men would be required?

Q. No, how many men were required—how many

(Testimony of Arthur Leigh Jolliffe.)

the Dominion [132] government had supplied for that purpose at that time?

A. How many had they supplied?

Q. Yes, how many were in active charge there at that time in handling these 305 Chinese that came in this one boat. A. That I could not answer.

Q. You don't know, of course, from whom the officer who prepared these manifests secured his information at that time?

A. He could only secure it from the man himself.

Q. Well, now, that is your opinion. I am saying, you don't know, do you—

The COURT.—It is very apparent that he did not, of course, because he was across the continent. He was not there, and could not know it.

Mr. McNAB.—Certainly.

Q. Now, Mr. Jolliffe, if you look over these manifests—I presume you have looked them all over—do you find anybody that is not classed as either a merchant or a grocer or something like that status?

A. I couldn't answer without looking them over.

Q. Did you ever know one to give his business as a laborer? A. Oh, yes.

Q. At that time?

A. I was not in the service at that time.

Q. Well, you have examined the records: Is there any case here of a laborer? A. Any case there? .

Q. Yes.

A. I couldn't answer without looking over the papers.

Q. Well, generally, among Chinese coming in,

(Testimony of Arthur Leigh Jolliffe.)

they give their status as merchants, do they not; that is the usual status given?

A. No, not necessarily.

Q. Have you ever found any mistakes in the records in regard to the description of Chinese?

A. No. [133]

Q. Have you ever had any occasion to investigate them? A. Yes.

Q. That is, since your time?

A. In my own time.

Q. You have had no occasion to go back to those older ones for the purpose of comparison?

A. For identification purposes.

Q. Oh, I presume for identification purposes, yes.

A. No, I never found it necessary.

Q. Have you for identification purposes?

A. No, I have never found it necessary. Not in the old time.

Q. You have never had occasion to go back to them at all? A. No.

Q. How much familiarity have you had with Chinese names, Mr. Jolliffe, since the time you went into the service?

A. Well, I have been familiar with them ever since I have been in the Canadian Immigration Service.

Q. Not before that time? A. No.

Q. Do Chinese ever, to your knowledge, have more than one name? A. Yes.

Q. Sometimes as many as three or four, do they not?

A. I couldn't answer that. Two I know of.

(Testimony of Arthur Leigh Jolliffe.)

Q. You know they have at least two names?

A. Yes.

Q. Do your records here put down all the names?

A. Those particular records that you are referring to?

Q. Yes.

A. I couldn't answer that question.

Q. Well, can you state that these names that are on these records are the true names of the persons who came in?

Mr. SCHOONOVER.—I object to that, your Honor. [134] It appearing that the witness, as suggested by the Court, was across the continent and—

The COURT.—Yes, it is apparent that he cannot.

Q. (By Mr. McNAB.) Can you swear that the name of any Chinese coming into your port and during your time is the name of the Chinese person described in your records?

Mr. SCHOONOVER.—I object to that as calling for a question of whether the Chinese are telling the truth about it, and his judgment about that is no better than anybody else's.

The COURT.—Yes, and it is apparent that he cannot do that.

Q. (By Mr. McNAB.) How many names of Chinese, when you discovered that the Chinese had several names, do you insert in your record?

A. How many—

Q. How many of the names do you insert in your records?

A. Their complete names.

(Testimony of Arthur Leigh Jolliffe.)

Q. Six or seven, if they have them?

A. I have never found more than two sets of names.

Q. Do you, in examining these records, find where any Chinaman has been given more than one name?

A. I couldn't answer that without examining those records.

Q. I call your attention to the fact that these records and reports which you have presented here, page after page, list the incoming Chinese as grocers. On the first page that I have before me are probably fifteen and on the next page probably twenty-five, on the next twenty, on the next thirty, on the next twenty, on the next about ten, and so on. Did the Immigration Department make any investigation beyond the statements of the persons as to whether or not they were grocers?

Mr. SCHOONOVER.—I object to that because it goes back to that date upon which the witness cannot know anything and does not claim to know.

The COURT.—The objection is sustained. [135]

Q. (By Mr. McNAB.) Then as I understand it, the extent of your testimony is that these are records which are found in your office, and you do not know anything about how they were prepared except your knowledge of how you now prepare these?

A. I only know that those are the official Canadian records of the arrival of Chinese between those dates.

Q. And you do not, of course, pretend to say whether or not there were Chinese aboard who are

(Testimony of Arthur Leigh Jolliffe.)

not in that record or whether there are Chinese misdescribed.

The COURT.—He cannot purport to say, and therefore will not attempt it.

Q. (By Mr. McNAB.) Who owns the “Empress of Japan”? A. At the present time?

Q. No; who owned her in 1897?

A. The Canadian Pacific Railway, as far as I know.

Q. Have you any familiarity with the method by which tickets were issued to Chinese at the port of Hong Kong at that time, the port of the Canadian Pacific Railway Company’s ships? A. No.

Q. Have you ever received any information or have you ever been told, as a matter of fact, how they were issued at that time? A. No.

Q. Let us see if I have the figures correctly: 305 Chinese came in on board the “Empress of Japan” on October 20; 177 came in on January 12.

A. I think that is what I said.

Q. What other vessels of the Canadian Pacific fleet came in between October 20 and January 12?

A. From these records, if my memory serves me right, the first was the “Empress of Japan,” October 20th; then the “Empress of China,” then the “Empress of India,” and then the “Empress of Japan” again. Those were the three boats of the fleet. [136]

Q. And the “Empress of China” and the “Empress of India” came in what order, do you remember?

(Testimony of Arthur Leigh Jolliffe.)

A. Well, I couldn't tell you without reference to those records. (Examining records.) The "Empress of China" arrived on the 17th of November, 1897, and the "Empress of India" on December 15, 1897, and the "Empress of Japan" again on the 12th of January, 1898. That is the order of them.

Mr. McNAB.—I would like to ask the other side if it will admit without the necessity, of course, of keeping these records here, because they are the property of a foreign government, that there are numerous individuals named in these lists of Chinese of the same age of the defendant. I am asking this for the purpose of—

The COURT.—Well, pass them up and I will take a look at them. If the facts can be adduced from an inspection I will have the benefit of it.

Mr. McNAB.—Your Honor will notice a number of them there at 17 and 18 years of age.

(The Court examines records.)

The COURT.—Did this defendant have or give any other name here in this connection?

Mr. McNAB.—He did, your Honor. I have forgotten what it was.

The COURT.—What does the record show?

Mr. SCHOONOVER.—No other name, only a marriage name, and I don't know that he did that.

Mr. McNAB.—I think the record before the Bureau shows several others besides.

Mr. SCHOONOVER.—No, it does not.

Mr. McNAB.—Very well, if it does not, it does not. But I would like to have the record here. Have you examined it? [137]

(Testimony of Arthur Leigh Jolliffe.)

Mr. SCHOONOVER.—I am informed that it does not. I mean this record here. He only gives one name here.

Mr. McNAB.—Before the Commissioner he was not asked concerning his other name.

Mr. SCHOONOVER.—It appears throughout that he signs his name Yee Chong at all times.

Q. (By Mr. DOCKWEILER.) Have you any record containing the original signatures of the passengers on board any of these vessels touching at Vancouver during the fall of 1897?

A. Not of passengers manifested through to foreign ports. Canadian Chinese, yes.

Q. (By Mr. McNAB.) At that time?

A. At that time.

Q. Are they here? A. No.

Q. Do you know if there is extant any record of the signatures of the passengers on board any of the Canadian Pacific liners touching at Vancouver, in the fall of 1897, other than Chinese intending to disembark and remain in Canada?

A. No, there would be no signature in the Canadian office other than those in Canada.

Q. (By the COURT.) Do I understand from that that there are other Chinese who came on these vessels destined for Canadian ports whose names do not appear on these manifests?

A. Yes, on these manifests they would not appear, the Canadian Chinese, not on these manifests, but on the ship's manifest they would appear.

Q. (By Mr. DOCKWEILER.) What is meant

(Testimony of Arthur Leigh Jolliffe.)

by the term "grocer," if you know, as used in the fall of 1897? I see practically all of these Chinamen on the ship's manifest are referred to as "grocers," that is, as having the occupation of "grocers." What was then intended by the use of that term, if you know? [138] A. I can't answer that question.

Q. (By Mr. McNAB.) Even down to the age of 15 here they are listed as "grocers." Do you know what significance that had in the Dominion at that time? A. No.

Q. (By Mr. DOCKWEILER.) I count, Mr. Witness, on this ship's manifest for the voyage of the "Empress of Japan" dated October 20, 1897, that among the 341 men there are only eleven listed as laborers, one as a missionary, if I remember, and the balance all as grocers, with the exception, as I see here, of two tailors and two washermen. All the balance were grocers. A. (No answer.)

Q. (By Mr. McNAB.) The ship's manifest at that time did not give the age, did it?

A. No, I don't think it did. In fact, I am practically sure it did not.

Q. I find no age on any of these records.

A. No.

Mr. SCHOONOVER.—May I inquire? These references you have been making, Mr. Dockweiler, are to the ship's manifest?

Mr. DOCKWEILER.—Yes.

Q. (By Mr. McNAB.) You spoke of one of these parties being routed through to Mansonville. You did not mean by that that his ticket read to Mansonville? A. No.

(Testimony of Arthur Leigh Jolliffe.)

Q. His ticket might have read to Boston?

A. His ticket did read to Boston.

Q. Do you know whether at that time, either through custom or otherwise, a Chinese passenger was required to write his name at the port of entry?

A. The Canadian passengers certainly were.

[139]

Q. Well, the Canadian Chinese?

A. Yes, the Canadian Chinese.

Q. But not any Chinese passing on into other countries? A. No, I think not.

Q. How did you get the names—simply by asking them?

A. Yes. They were taken in examination the same as they are to-day, I understand.

Q. And those names are written into English simply by sound? A. Through a Chinese interpreter.

Q. Well, the only way, is it not, of putting a Chinese name into English is by sound?

A. That is the only way.

Q. And the spelling of those names, as you know, as a matter of fact, varies? One person may get the sound spelled one way and another may get it spelled another way? A. It varies but very slightly.

Mr. DOCKWEILER.—Here is the record in the case of this man who just left the witness-stand, Dock. Now, the interpreter gave it “Dock”; it is “Ark.” But there is no doubt but that he was the same man that testified before the Commissioner.

The COURT.—He gave the date of his landing in

(Testimony of Arthur Leigh Jolliffe.)

Vancouver as November or December, 1897, as I remember now.

Mr. SCHOONOVER.—I think that is right. The twelfth month covers from some day in December to some day in January, does it not?

Q. (By Mr. McNAB.) They are all “Empresses,” are they not?

A. All those three are “Empresses,” yes, sir.

Q. Which one of them landed during October and prior to the 20th?

A. Well, it is not likely that there would be any in October prior to that one. They run about once a month. They used to run about once a month.

Q. At that time did the Canadian Pacific run other vessels of [140] her fleet to the Orient?

A. I think not.

Q. (By Mr. SCHOONOVER.) Does she now?

A. Yes.

Q. What boat?

A. The “Mongol” and the “Empress of Russia” and the “Empress of Asia.” They are the last boat or two new boats, only one running for about a year.

The COURT.—It is apparent from these manifests that a number of individuals ranging from 16 to 17 or 18 entered this port at this time, none of them, however, by the name Yee Chung.

Mr. McNAB.—That fact, as stated by the Court, will be admitted, will it, gentlemen?

Mr. SCHOONOVER.—Certainly.

Q. (By Mr. SCHOONOVER.) I understood you to say on cross-examination that these manifests are

(Testimony of Arthur Leigh Jolliffe.)

kept as the manifests are kept at present and during your occupancy of the position that you now hold.

A. Yes.

Q. And they are part of the same file, a continuous file of manifests, are they? A. Yes.

Q. From the dates of these manifests up till the present day? A. Yes.

Q. (By Mr. McNAB.) You did not see that those were kept in the same manner that you now keep them?

Mr. SCHOONOVER.—I didn't ask him if they were.

Mr. McNAB.—I so understood you.

Q. You did not mean to testify that they were kept in the same strict manner that you now keep yours?

Mr. SCHOONOVER.—He says these are kept as those were kept, in the same form. [141]

A. That is my understanding of the question, that the manifests at the present time are kept in the same form as those manifests—exactly the same.

Q. That is, that the ruling of the paper and the lines and the information displayed upon the face of the paper is the same? A. Why, certainly.

Q. You are not testifying to anything in regard to the manner, of course, in which the administration was carried on? A. No.

Mr. SCHOONOVER.—That is all. It is understood that this witness will not be recalled, gentlemen, is it?

Mr. DOCKWEILER.—Well, now, some mysterious matters might develop. Of course we do not

know. We have never seen these papers, your Honor, until the witness was placed on the stand, and they have turned them over to us. Now, they are large and bulky, and contain many sheets, and there might be something develop on a critical examination thereof that might necessitate further cross-examination. We do not want to excuse the witness at this moment.

Mr. SCHOONOVER.—How long will it take to make the critical examination?

Mr. DOCKWEILER.—Mr. McNab will run the papers over this evening, and possibly he can answer before the clerk or answer before you and then we will put down his questions. We will do everything that we can to accommodate the Government and enable our Canadian friend to return home.

The COURT.—Of course, if there is any necessity for further examination and you determine upon that we will proceed with the case; if not we will adjourn it over; because we cannot afford to have this gentleman brought back.

Mr. DOCKWEILER.—Oh, no; but in case we want to examine him on some matters we can have him answer before the District Attorney, [142] for instance, and we will put his answers down.

Mr. SCHOONOVER.—Then he may be excused as a witness?

Mr. DOCKWEILER.—We may not desire to ask him a single other question, but we do not know.

Mr. SCHOONOVER.—What we do stipulate is that we will get together and ask the witness a ques-

(Testimony of Charles D. Mayer.)

tion and write his answers down and have them go in the record as what he has testified to.

Mr. DOCKWEILER.—Yes.

The COURT.—The understanding is that he will remain subject to your call this afternoon, then. That is agreeable to you, Mr. Jolliffe, is it?

The WITNESS.—Yes.

Mr. McNAB.—Yes. [143]

Testimony of Charles D. Mayer, for Plaintiff.

CHARLES D. MAYER, a witness called on behalf of the Government, having been first duly sworn, testified as follows:

Direct Examination.

(By Mr. SCHOONOVER.)

Q. Please state your name.

A. Charles D. Mayer.

Q. Where do you reside?

A. San Francisco—or Oakland—or Berkeley.

Q. What is your business?

A. I am an immigrant inspector stationed at San Francisco.

Q. In the service of the United States Government.

A. Yes, sir.

Q. How long have you been in that service?

A. I have been in the Immigration Service for the last past eleven years.

Q. What particular service are you performing at this time?

A. I am the inspector in charge of the law section of the Immigration Service at San Francisco.

Q. And you have occupied that position how long?

(Testimony of Charles D. Mayer.)

A. Why, virtually for two or three years, and I was subordinate officer before that.

Q. Were you ever at any time in the Immigration Service of the United States at Burlington, Vermont?

A. I was stationed in the New England district in which Burlington is situated.

Q. Were you acquainted with George E. Johnson, United States Commissioner for the District of Vermont, during the time that he acted as such Commissioner?

A. Yes.

Q. And did you know Commissioner George E. Johnson?

A. From about 1904 until 1907. [144]

Q. Where was he stationed?

A. At Burlington.

Q. What kind of a looking man was Mr. George E. Johnson, commissioner at Burlington, Vermont, at the time you knew him there?

A. Well, he was a man I should say of about 65 years of age, a small man, weighing I don't think more than 135 pounds at that time, and he showed a declining physical condition, that is, he seemed to be shrinking physically, and he gave the appearance of being a rather undersize man.

Q. What was his height?

A. Well, about 5 feet 6, I should say. That is my general impression. Possibly 5 feet 7 if he stood straight.

Q. You were acquainted with him and had official business with him, did you?

A. Oh, yes, frequently.

(Testimony of Charles D. Mayer.)

Q. Where was his office in Burlington at the time you were familiar with him?

A. In the Federal Building there, which was the custom-house.

Q. Where was that located with reference to the railroad station in Burlington, from the Montreal Railroad by which you reached Vermont from Montreal, Canada?

A. Oh, it was practically a mile distant; nearly a mile anyway.

Q. Where was the place of detention of Chinese held for investigation in Burlington at that time?

Mr. DOCKWEILER.—What time does he refer to—1904?

Mr. SCHOONOVER.—He has given the dates.

A. When I was there they were detained in the jail.

Q. (By Mr. SCHOONOVER.) What date was that? A. About 1904 until 1907.

Q. (By Mr. DOCKWEILER.) Do you know where they were detained in 1897, in December, or in January, 1898? [145]

A. No, I do not, of my own knowledge.

Q. (By Mr. SCHOONOVER.) At the time you knew they were detained in jail was the jail they were detained in the only jail there in Burlington?

Mr. McNAB.—Maybe Mr. Mayer has not been in all the jails.

A. Well, I must confess that I never was in any jail in Burlington, and I never really saw a Chinaman—I don't really know where they kept their

(Testimony of Charles D. Mayer.)

Chinamen except from information.

Mr. SCHOONOVER.—That is all.

Cross-examination.

Q. (By Mr. DOCKWEILER.) How did you pronounce your name—Mayer? A. Yes, sir.

Q. Did you ever hear it pronounced Meyer?

A. Yes, sir.

Q. You are the same gentleman who prepared that report that is in evidence here with reference to the admission of the defendant Yee Chung?

Mr. SCHOONOVER.—How is that?

Mr. DOCKWEILER.—There is a report that is in evidence, one of our exhibits, respecting the defendant Yee Chung, in which Mr. Mayer discusses the question of the Vermont record.

Mr. SCHOONOVER.—I object to interrogating him upon that question.

Mr. McNAB.—He is simply asking him if he is the same Mr. Mayer.

Mr. SCHOONOVER.—All right.

Q. (By Mr. DOCKWEILER.) You are the same person, are you? A. Yes, sir.

Q. Now, Mr. Mayer, you testified before the Commissioner in this case? A. I did.

Q. Was this question put to you, that is, before the Commissioner: "What was his physical appearance?" referring to the Commissioner [146] George E. Johnson, and did you answer that question as follows: "He was an elderly—I will state it in this way. I first became acquainted with him in either 1904 or 1905. He was then a man at least 60 years

(Testimony of Charles D. Mayer.)

of age and was a small man physically." Did you so answer? A. I think so.

Q. Well, in answering the Government's question as to his age you have just stated on your direct examination that Johnson's age was 65.

A. Oh, I don't know: I simply estimate.

Q. Well, now, which do you think would be the more correct estimate—the estimate of 65 as now given, this day, or the estimate of 60 years as given in the examination of the defendant before Commissioner Williams?

Mr. SCHOONOVER.—I object to the question, your Honor, on the ground that it does not correctly state what the witness testified to as before the Commissioner as just read by counsel himself, because, as read by counsel himself, the witness said before the Commissioner that the person was at least 60 years of age and not 60 years of age.

Mr. DOCKWEILER.—I read the question in that way.

Mr. SCHOONOVER.—You are not putting it to him in that way: you are asking him as to whether his estimate of 60 then or 65 now is correct.

Mr. DOCKWEILER.—I am putting these questions just to illustrate—

Mr. SCHOONOVER.—I want you to put them fairly, whatever the purpose is.

Mr. DOCKWEILER.—This is not for impeachment. I just want to illustrate how easy it is for most of us, including Mr. Mayer.—for whom I have the highest respect,—and we are willing to stipulate

(Testimony of Charles D. Mayer.)

that every word Mr. Mayer has stated is the truth as he sees it— [147]

Mr. SCHOONOVER.—Well, that is presumed, without your stipulation.

(Last question read.)

The COURT.—Well, it is not exactly accurate, apparently. Reframe the question so as to include all the elements incorporated in the original answer.

Mr. DOCKWEILER.—Now put the same question, Mr. Reporter, except use the words “at least 60 years” instead of “60.”

Mr. SCHOONOVER.—Now I submit there is no conflict between the two statements.

The COURT.—Yes. The objection is sustained.

Q. (By Mr. DOCKWEILER.) Now, you also, in giving an accurate description of Commissioner Johnson, made this answer on page 9, middle of the page: “He was a man, I should say, about 5 feet 6 or 7 inches in height, was inclined to be stooped, and was light in build, probably not weighing more than 130 or 135 pounds during the period that I knew him from 1904 or 1905 until about 1907.” Now you have just a little while ago stated that the weight of Mr. Johnson was 155 pounds. A. If I so stated—

Mr. SCHOONOVER.—No, he didn’t say so.

Mr. McNAB.—No, it was 135.

Mr. DOCKWEILER.—Was it? Well, I have no further questions on that line, then.

Q. How often did you see the Mr. Johnson referred to?

A. I was in his office once every day for two weeks

(Testimony of Charles D. Mayer.)

at least, and another occasion I would go there, oh, maybe a dozen times a year.

Q. (By Mr. McNAB.) Did you know the District Attorney at the time Mr. Johnson was Commissioner? A. Yes.

Q. Senger, his name was?

A. Well, I didn't know Mr. Senger, no. I knew the District Attorney in 1904. [148]

Q. But in 1907 did you know the District Attorney? A. No.

Q. Did you ever see him? A. No.

Q. You don't know whether he was an old man or a young man? A. I don't know.

Q. Did you ever attend court in Mr. Johnson's courtroom?

A. I never had occasion for Mr. Johnson; but I have been in his office when he has heard cases, not Chinese cases; just happened to be there.

Q. Did he sit up on a desk or just on the floor behind a table?

A. Well, he sat at his desk at his office when I heard him.

Q. An elevated desk or just on the floor?

A. I think it was a roll-top desk. I don't remember.

Q. Did you know Mr. Foster, the attorney who is reported by the proceedings in this case to have been present? A. No, sir.

Q. Don't know anything about his size? A. No.

Q. And at the time that you knew the place Chinese persons under detention and for examination

(Testimony of Charles D. Mayer.)

were detained in jail or lockup in Burlington?

A. That was my understanding.

Mr. DOCKWEILER.—That is all.

Q. (By Mr. SCHOONOVER.) Did you say that Mr. Johnson, in hearing the cases you were present when he did hear at Burlington, Vermont, sat on any elevated platform or not? A. I think not.

Q. (By Mr. McNAB.) And at the time you wrote your report recommending as to the landing of these persons, including the defendant here, and his description, you had all these things in mind, your knowledge of Mr. Johnson and what you had seen, etc.? A. Yes, I did.

Mr. McNAB.—That is all.

Mr. SCHOONOVER.—That is all. [149]

Testimony of Charles N. Williams, for Plaintiff.

CHARLES N. WILLIAMS, a witness called on behalf of the Government, having been first duly sworn, testified as follows:

Direct Examination.

(By Mr. SCHOONOVER.)

Mr. McNAB.—I suppose it will be stipulated by the Government that Commissioner Johnson is dead; that he died about 1907?

Mr. SCHOONOVER.—I think it appears in the correspondence that you put in evidence.

The COURT.—Yes, it is in somewhere. I have been apprised of it from some source.

Q. (By Mr. SCHOONOVER.) You are the Commissioner before whom the case of the United States

(Testimony of Charles N. Williams.)

of America vs. Yee Chung, being your Commissioner's number 467, was heard here in this courtroom, are you not? A. I am.

Q. I call your attention to a photograph on the back of the first page of—two pages within a wrapper here, upon which wrapper is indorsed Government's Exhibit 1, Charles N. Williams, U. S. Commissioner, and ask you if that is the photograph which was exhibited to the defendant in this case at the time of that hearing before you (exhibiting papers).

A. I cannot recall now the particular photograph. I recall that there was a photograph which was attached to a paper purporting to be his father's—I think in connection with his father's going to China, and the photograph was supposed to be the photograph of the father. I remember such a photograph being called to my attention during the hearing.

Q. And but one photograph?

A. And but one photograph. [150]

Q. And you indorsed the exhibit there as appears upon it, did you? A. I did.

Q. To which your attention has been called?

A. I did.

Mr. SCHOONOVER.—That is all.

Cross-examination.

(By Mr. McNAB.)

Q. Did you examine the photograph at the time?

A. Yes, sir.

Q. You would not be able to swear by looking at it, positively, one way or the other, whether it is or is

(Testimony of Charles N. Williams.)

not the same photograph, would you?

A. Not from a recollection of the photograph itself, no.

Mr. McNAB.—That is all.

Mr. SCHOONOVER.—That is all. That is the Government's case for the present. That is all we have at this time.

Mr. McNAB.—That seems to conclude the evidence for the day, your Honor.

Mr. DOCKWEILER.—You haven't any further testimony to offer, Mr. Schoonover?

Mr. SCHOONOVER.—Not that I know of at this time. I will reserve the right to offer any that may be in order later.

Mr. DOCKWEILER.—Oh, certainly.

The COURT.—Well, pursuant to stipulation and understanding heretofore entered into, then, we will adjourn the hearing at this time for the purpose of taking the depositions of certain witnesses for the defendant at San Francisco, the case to be set down for further hearing at the earliest opportunity at the convenience of counsel on five days' notice, with the right reserved by either side to produce further evidence at the time [151] of the further hearing as they may be advised. That is the understanding, gentlemen.

Mr. DOCKWEILER.—Yes, your Honor.

Mr. SCHOONOVER.—Yes.

The COURT.—All right.

Mr. DOCKWEILER.—How soon may we proceed to take the depositions?

The COURT.—If it will be of any advantage to you gentlemen, I am going to San Francisco and will arrange to be present at this examination.

Mr. DOCKWEILER.—Yes, your Honor, we do desire it.

Mr. SCHOONOVER.—It is desirable.

The COURT.—Then we will take the depositions on Thursday morning, the 22d of April.

(The hearing herein was thereupon adjourned to be resumed at San Francisco, California, on April 22, 1915.) [152]

John L. McNab, Esq.

*In the District Court of the United States, for the
Southern District of California, Southern Division.*

Before Hon. BENJAMIN F. BLEDSOE, Judge.

No. —.

Vol. —.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

YEE CHUNG,

Defendant.

Reporter's Transcript.

Saturday, April 24, 1915.

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CHARLES R. GAGAN,

EDWARD W. LEHNER,

Official Reporters,

329 P. O. Building.

Filed Mar. 23, 1916. Wm. M. Van Dyke, Clerk.

By Chas. N. Williams, Deputy Clerk. [153]



*In the District Court of the United States in and for
the Southern District of California, Southern
Division.*

Before Hon. BENJAMIN F. BLEDSOE.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

YEE CHUNG,

Defendant.

San Francisco, California, Saturday, April 24, 1915.

Counsel Appearing:

A. SCHOONOVER, Esq., for the United States;
JOHN L. McNAB, Esq., and TIMOTHY HEALY,
Esq., for the Defendant.

Mr. McNAB.—If your Honor please, I have just spoken to Mr. Schoonover and asked his courtesy in this matter, and I submit this to your Honor: when we went to Los Angeles in this case we did not know half as much about it as we learned while we were there, and we had not exhausted our search for witnesses as we did when we came back. The two witnesses whom we mention in our affidavit are here, but we have succeeded in locating two other witnesses, one who has been in the employ of the Commissioner of Immigration for the last 25 years, and another the head of a large firm in Chinatown. Their testimony would be very brief; in fact, I believe the testimony of all of them will be very brief. I think I can conclude them all in an hour. I would ask whether or not there would be any objection to my taking the testimony of these witnesses while your Honor is here. [154]

The COURT.—None, so far as the Court is concerned, Mr. McNab. The understanding was that we would come up here to take the depositions of the witnesses who were unable to attend in Los Angeles; but the Court is willing to accommodate you in that regard.

Mr. SCHOONOVER.—And I certainly am.

Mr. McNAB.—There is one other matter that I should like to apply for. One of the witnesses is a former Assistant Commissioner of Immigration, Mr. Edsell, who is now residing in San Francisco. The particular point that I want to call Mr. Edsell for is this: some manifests were introduced in the trial at Los Angeles of the ships coming in from China; we had no evidence there on either side as to the custom which was followed in the making up of these manifests other than the custom at the present time. Mr. Edsell is the man who has had experience with thousands of them; he expresses a disinclination to appear voluntarily and testify, but he says that if a subpoena is served on him, of course he will come. May I ask for the issuance of a subpoena for him to appear?

The COURT.—Any objection to that, Mr. Schoonover?

Mr. SCHOONOVER.—No.

The COURT.—It will be so ordered. I suppose, gentlemen, that there had better be some stipulation here with respect to this testimony.

Mr. SCHOONOVER.—Of course, the defendant expects to use this testimony, and we will stipulate upon the resumption of the hearing in the jurisdiction that it may be introduced. I do not think any stipulation at this time is necessary. No matter how it is got into the transcript, we will stipulate that it may be introduced. [155]

Deposition of Wong Chung, for Defendant.

WONG CHUNG, called for the defendant, sworn and examined through the Interpreter, Elmer Jones, who was duly sworn, testified as follows:

Mr. McNAB.—Q. Where were you born?

A. San Francisco.

Q. In what year?

A. In the sixth year of Hong Gee.

Q. Can you give us that date, Mr. Interpreter?

The INTERPRETER.—No, I cannot just now; I can get it later.

Mr. McNAB.—I think that is 1867 in our American calendar. I will proceed without reference to dates until the Interpreter gets that.

Q. What business was your father in?

A. He ran a drug-store.

Q. What is your business or work?

A. I am a cook.

Q. Cook for whom? A. John Backus.

Q. The Commissioner of Immigration?

A. Yes.

Q. The Commissioner of Immigration at the port of San Francisco? A. Yes.

Q. How many years have you been in General Backus' home?

A. I have been there about 25 years, with General Backus all the time.

Q. Have you worked any place else for the last 25 years? A. No, I never worked in any place else.

Q. When did you first go to China?

A. Kwong Sue 6th year.

(Deposition of Wong Chung.)

The INTERPRETER.—That is 1880.

Mr. McNAB.—Q. How old were you then?

A. About 13.

Q. How long did you stay in China?

A. I stayed for about 10 years, a little more.

Q. Before you went to China did you know Yee Kim Sing, a Chinese merchant in San Francisco?

A. Yes, I knew him.

Q. What business was he in in San Francisco?

A. He was in the general merchandise business.

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Q. At what place? A. On Sacramento Street.

Q. Did you know Yee Kim Sing when you left for China? A. Yes, I did.

Q. Where was Yee Kim Sing at the time you went to China? A. He was at Quong Wah Chungs.

Q. That is a firm in Chinatown? A. Yes.

Q. Do you know whether Yee Kim Sing had any son at the time you left for China?

A. Yes, he had one son.

Q. After you got to China did you see Yee Kim Sing, and if so how long after you arrived there?

A. After I had been in China about a year or so I saw him.

Q. Did he come on from the United States?

A. Yes.

Q. Who did he have with him?

A. With his father and mother.

Q. Did you see any baby with them?

A. Yes, I saw his son.

Q. About how old was this son?

(Deposition of Wong Chung.)

A. About two years old.

Q. Where were your folks in China living with respect to the place that Yee Kim Sing and his wife and baby were living?

A. About 3 Chinese miles; approximately one English mile.

Q. Did you visit between yourselves? A. Yes.

Q. About how often? A. Several times a year.

Q. Were the relations between your two families close or otherwise; that is, was there any relation between the families?

A. Yes. The mother of this boy was the same surname as my father.

Q. What did they call the mother?

A. Wong Shee.

Q. What did they call the father?

A. Kim Sing.

Q. Who did he say had the same surname?

The INTERPRETER.—He said the same surname as his father.

Q. What is your father's surname?

A. Wong Quock Sim.

Q. Were you relatives of this family or only distant clansmen?

A. Only the same surname, not close relatives.
[157]

Q. Were you taught to call Yee Kim Sing's mother by any particular name? A. I called her my aunt.

Q. What year did you leave China to come back to the United States?

(Deposition of Wong Chung.)

A. It was in the last part of the 15th year of Kwong Sue. (1889.)

Q. How old was this baby of Yee Kim Sings at that time? A. About 10 years old.

Q. What was his name? A. Yee Chung.

Q. Did you see Yee Chung, that is, the man in this case? A. In China?

Q. No, here?

A. I saw him when he was a boy, a few months old; I saw him after he had been born a few days.

Q. Then you saw him in China? A. Yes.

Q. He was about 10 years old you say when you left China? A. Yes.

Q. Have you seen him in this country since that time? A. No; I have never seen him since.

Q. You say his name was Yee Chung? A. Yes.

Q. Did you return to China again after you came back here again in 1889? A. Yes.

Q. When? A. Kwong Sue 25th year (1889).

Q. How long did you stay there?

A. Over a year.

Q. Who did you see in China when you were there? Did you see Yee Kim Sing? A. Yes.

Q. Did you see Yee Chung? A. No.

Q. Did you see Yee Chung's wife? A. Yes.

Q. How many children did she have?

A. I saw one just able to walk and one a few months old.

Q. Boys or girls? A. Boys.

Q. When did you come back to the United States?

A. The 25th year of Kwong Sue.

(Deposition of Wong Chung.)

Mr. SCHOONOVER.—That is the same year he went? A. Yes. [158]

Mr. McNAB.—Q. When did you go back to China again?

A. I went back in the 32d year of Kwong Sue and the 34th year I came back here to the United States.

Q. What year did you go back to China?

A. The 32d year of Kwong Sue (1906).

Q. Are you sure it is 1906? A. Yes.

Q. On what boat? A. The "Siberia."

Q. When did you return?

A. The 34th year of Kwong Sue (1908).

Q. On any one of those trips when you were there did you see Yee Chung? That is, did Yee Chung come on from the United States or anywhere else?

A. Yes. The last time when I went back I saw Yee Chung.

Q. What was the last time when you went back to China?

A. That was the 32d year of Kwong Sue I went back there, and I saw him some time in the 33d year of Kwong Sue.

Q. What I am trying to get at is, how long had you been in China before Yee Chung arrived?

A. About two months.

Q. Where did he come from?

A. From America.

Q. Now, I do not think the witness understood me, Mr. Interpreter: Have you seen Yee Chung in this country after you came back from China—did you see Yee Chung in this country after you came back

(Deposition of Wong Chung.)

from China? A. Yes.

Q. How often? A. Many times.

Q. Now, is this Yee Chung the defendant in this case the same man that you saw in China when you left there when he was about 10 years of age?

A. Yes.

The COURT.—Is Yee Chung in court this morning?

Mr. McNAB.—No, he is in Los Angeles. I thought he was to be here.

The COURT.—Have you a picture of Yee Chung here?

Mr. McNAB.—Yes. [159]

A. Yes. He used to come to see me from Pittsburg.

Q. Are you still in the household of General Backus? A. Yes.

Q. And have been there with him about 25 years?

A. Yes.

Q. You are his domestic cook? A. Yes.

Cross-examination.

Mr. SCHOONOVER.—Q. Is General Backus the only person you have worked for in this country?

A. Yes.

Q. When did you begin to work for him?

A. The 16th year of Kwong Sue (1890).

Q. How old were you when you first saw this baby you have testified about, who was just in his mother's arms, as you say? A. 13 years old.

Q. Where were you living then?

A. I lived on the corner of Clay Street and Dupont

(Deposition of Wong Chung.)

Street, in San Francisco Chinatown.

Q. Where did you see the baby?

A. I went to see him at his mother's house.

Q. Where was that house?

A. Upstairs over the firm of Quong Wah Chong.

Q. What number and street?

A. 728 Sacramento Street.

Q. How far are these two points apart, where you lived and where you saw the baby?

A. Over a block.

Q. How long had the father and mother of this baby, as you say, lived where they lived at the time you saw the baby, to your knowledge?

A. They had lived there since the child was born.

Q. How long do you know that they lived there before the child was born? A. Several years.

Q. About how many?

A. I could not tell you exactly how many years; I know it was several years.

Q. How many years had you lived where you lived when you went to see the baby before that time?

A. All the time; I lived there with my parents.

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The COURT.—Suppose you show that to him.

Mr. McNAB.—I now show to the witness, if your Honor please, the picture of Yee Chung, as it appears on the upper lefthand margin of the duplicate affidavit of Yee Chung in the matter of the identification of Yee Wah, minor son of a citizen of the United States. He is one of the sons that was admitted, Mr. Schoonover, whom we discussed in Los Angeles.

(Deposition of Wong Chung.)

Mr. SCHOONOVER.—I remember that.

Mr. McNAB.—Q. Now I show you this photograph and ask you whether or not that is the Yee Chung that you refer to (showing)? A. Yes.

Mr. SCHOONOVER.—Q. What is the date of the affidavit?

Mr. McNAB.—The 28th of September, 1910.

Mr. SCHOONOVER.—And that photograph was taken at what time with reference to that?

Mr. McNAB.—It must have been taken at that date. I ask that it be marked Defendant's Exhibit "A" at San Francisco.

(The photograph is marked "Defendant's Exhibit 'A' at San Francisco.")

Q. Is this man whom you identify as Yee Chung the same boy whom you left in China and who you say was about 10 years old at that time? A. Yes.

Q. About how often have you seen him in this country? A. Very many times.

Q. Do you know where he has been living in the last few years?

A. Bootchy Wooky—the name of some town. Since he came back from China he went there to live.

The INTERPRETER.—It is some small town.

Q. Do you know the name of the state?

A. I don't know the name of the state.

Q. Do you know a city that is in English called Pittsburg? [161]

Q. Is that the place where you were born?

A. Yes.

(Deposition of Wong Chung.)

Q. You have been to China all told how many times? A. Three times.

Q. How long were you over there the first time?

A. The first time over ten years.

Q. How long the second time?

A. Over a year.

Q. And the last time? A. Almost two years.

Q. Is that a thickly settled country, are there lots of Chinese in the neighborhood where you say you saw Yee Chung, the man whose photograph you have identified?

A. There is a village there—a Chinese village.

Q. Did you live in one village and was the place where you saw him a different village?

A. Not the same village; my village was about one English mile distant.

Q. How many people lived in that village you lived in? A. Over 100 counting women and children.

Q. What is the name of that village?

A. Ng Hntong.

Q. How old was this baby Yee *Chung* you started to China the first time?

A. About 5 or 6 months old.

Q. How long was it before you saw it again?

A. About a year or over a year after that; then I saw his father and mother.

Q. Where did you see the baby at that time?

A. I went to his village and to his house.

Q. This surname that the mother of Yee Chung and the surname that your father bore is the name of a Chinese clan, isn't it? A. Yes.

(Deposition of Wong Chung.)

Q. And includes a great many thousands of Chinese?

A. Yes, several tens thousands of them.

Q. When was it you next saw this Yee Chung after he was a couple of years old when you saw him in China?

A. He was about 10 years old when I saw him.
[162]

Q. Where was that you saw him?

A. At his house.

Q. Where was that? A. At his village.

Q. In China? A. Yes.

Q. Then you next saw him when?

A. Then I saw him in the 1st year of Shun Ning here in America (1909).

Q. Where did you see him?

A. In the store of Quong Ting Chung, a Chinese store.

Q. Is that the same store you saw him in when he was a boy? A. No.

Q. How old was he then when you saw him in this other store? A. About 30 or 32 years old.

Q. Where was that store?

A. On Commercial Street.

Q. What number? A. 741.

Q. What was he doing then?

A. He just came back from China and was just living there.

Q. How long had he been back from China when you saw him?

A. I saw him on the day he came on shore.

(Deposition of Wong Chung.)

Q. Where did you see him?

A. In that store of Quong Ting Ching.

Q. How long did he stay there at that time?

A. About a month or 5 or 6 weeks, and then he went back east travelling.

Q. Were any of his people there at that building at the time he landed when you saw him?

A. No, he had friends there, that is all.

Q. When did you see him next after that?

A. I saw him often after that.

Q. I am asking when next?

A. When I had the opportunity, when I went out, I would go to see him.

Q. I want you to tell how long after you saw Yee Chung there at this store after he had landed and after he had left the store [163] and went through the country back east, you saw him again.

A. He came back in about 6 or 7 years and I saw him.

Q. It was 6 or 7 years then from the time when he landed here in San Francisco and stopped about a month at that store until you saw him again?

A. Yes.

Q. Then where did you see him?

A. February of last year I saw him in Quong Ting Ching's.

Q. Is that the next time you saw him after this time he landed in San Francisco that you have told about?

A. I saw him many times.

Q. Did you see him at all from the time he landed, when you say you saw him on the day he landed and

(Deposition of Wong Chung.)

came back from China—did you see him any place for the next 6 or 7 years?

A. He used to come back here sometimes and then I would see him during that time.

Q. How long was it after he went back east until he came back to San Francisco again and you saw him? A. About six years before I next met him.

Q. You saw him then when he came back six years after he had gone away? A. Yes.

Q. Where? A. At Quong Ting Ching's.

Q. That is the same store that he stopped at when he landed on his return from China? A. Yes.

Q. How long did he stay that time?

A. He came here in February and lived there until March—about March.

Q. What did he do?

A. When I went to see him he told me he was going to go back to China, but he didn't know exactly when he would go because he had not obtained his papers.

Q. He stayed there about a month that time, did he?

A. More than that; I think about three months.
[164]

Q. You talk pretty fair English, don't you?

A. Not very much.

Q. You understand me very well, don't you?

A. A little, not all.

Q. You say he stayed two or three months that time? A. I can't say exactly; it was about that.

Q. Do you know where he went when he left then?

(Deposition of Wong Chung.)

A. He told me that he wanted to go back to China, but not having obtained his papers yet, he was going to go and look for some work to do.

Q. When did you see him the next time?

A. About 3 or 4 weeks.

Q. Where did you see him?

A. At Quong Ting Ching's place.

Q. The same place? A. Yes.

Q. When was it that you saw him this last time you have mentioned? A. About 3 or 4 weeks ago.

The COURT.—Q. You say Yee Chung came to see you from Pittsburg?

A. When he came from Pittsburg I went to see him.

Q. Where did you go to see him?

A. At Quong Ting Ching's store.

Q. How many times did he come here from Pittsburg that you went to see him?

A. Many times—most every night I came down town.

Q. When was that? A. Last year.

Q. What time last year?

A. The Chinese second month, February.

Deposition of Yee Foo, for Defendant.

YEE FOO, called for the defendant, sworn.

Mr. McNAB.—Q. Your name is Mr. Yee Foo?

A. Yes.

Q. What is your business? A. Merchant.

Q. With what firm are you?

A. Wing Hing Lung & Company.

Q. Is that a big firm or a small firm?

(Deposition of Yee Foo.)

A. It is a big firm of importers. [165]

Q. About how much business does it do every year?

A. We are doing about, I think, about \$300,000 a year.

Q. How much duty do you pay every year to the United States Government?

A. About forty thousand or more sometimes.

Q. About \$40,000 a year? A. Yes.

Q. Where were you born?

A. I was born in China.

Q. When did you come to the United States?

A. I came to the United States in 1872.

Q. While you were in the United States did you know Yee Kim Sing? A. Yes.

Q. Who was Yee Kim Sing?

A. Yee Kim Sing, he was a merchant at 728 Sacramento Street.

Q. What did he do in that firm?

A. He was the bookkeeper in that firm.

Q. What was the name of the firm?

A. Quong Wah Chong.

Q. What kind of business was it engaged in?

A. Importing, general importing store—a general merchandise and clothing store.

Q. You say you came here in 1872. When did you first return to China?

A. I returned to China in 1879.

Q. When you left for China did Yee Kim Sing have any children? A. No.

Q. No children? A. No.

Q. How long did you stay in China?

(Deposition of Yee Foo.)

A. I stayed in China about eight months—8 or 9 months.

Q. Then you came back to San Francisco?

A. Yes.

Q. In what year? A. 1880.

Q. When you came back from China in 1880 did Yee Kim Sing have a child? A. Yes.

Q. What kind of a child, a boy or girl?

A. A boy. [166]

Q. Do you know the American month that you came back from China?

A. I think I came back about sometime early in August.

Q. August or September? A. Yes.

Q. Whatever the records in the Immigration office show is right?

A. No, nothing showed at that time because the restriction law not passed at that time.

Q. Did you see this boy that had been born to Yee Kim Sing after you came back from China?

A. Yes, I didn't see him born but I seen him when he was a few months old, a child, after I came back.

Q. You were not here when he was born?

A. No, I was not here.

Q. You were in China? A. I was in China.

Q. Now after you came back from China in 1880 where did you stay?

A. I stayed at Quong Wah Chung's; I stayed there for a while.

Q. Quong Wah Chung's was the store where Yee Kim Sing was bookkeeper?

(Deposition of Yee Foo.)

A. Yes, the bookkeeper.

Q. Did you have any business with Yee Kim Sing in that year?

A. In that year, on the end of the year he told me to go up to start up business, and I went up to Woodland to start business in Woodland, and he sent the goods up there to me to start in with.

Q. Do you know whether or not Yee Kim Sing after that left the United States?

A. I think so, in 1881.

Q. Where did he go? A. He go to China.

Q. Did he take his wife and this boy with him?

A. Yes.

Q. Now then did he come back from China?

A. Yes, he came back I think the next year.

Q. Did he bring this boy and his wife with him?

A. No.

Q. When did you go next to China?

A. I next go to China in 1884.

Q. How long did you stay—about how long?

A. I stayed there about ten months. [167]

Q. While you were there in China in 1884, did you see Yee Kim Sing's wife and this baby boy?

A. Yes.

Q. You saw the baby, did you?

A. I saw the baby.

Q. Where? A. I went to visit them.

Q. Where was your village that you lived at while in China?

A. My village is about three miles from his.

Q. How often did you see Yee Chung and his mother?

(Deposition of Yee Foo.)

A. That time I go home I only see him 2 or 3 times.

Q. What was this boy's name? A. Yee Chung.

Q. Did you go back to China again?

A. I didn't go back to China until Kwong Sue 22;
I have to get the date.

Q. 1896? A. I think 1896 or 1897.

Q. In 1898 you went back to China? A. Yes.

Q. How long did you stay there that trip?

A. I stayed there about a year; just about a year—
I think not quite a year but near a year.

Q. You stayed until 1897, did you? A. Yes.

Q. While you were there did you see Yee Chung?

A. Yes.

Q. What happened while you were there, if anything, about Yee Chung?

A. After I was there, when I go to visit him his mother told me that her boy going to be married pretty soon; then afterwards he got married and he sent me invitation to attend the wedding.

Q. Did you attend the wedding? A. Yes.

Q. What village was it in?

A. The village of Chung Doey.

Q. You say you returned to the United States in 1897. How many months did you say it was that you were in China that time?

A. I in China about, I think it was, one year.

Q. About one year? A. Yes.

Q. How long after you got to China was it that the wedding took place? [168]

A. I think it was about two or three months.

Q. Before you left China did anything happen in

(Deposition of Yee Foo.)

Yee Chung's family?

A. Well, I didn't see anything much happen in his family at that time, because I visited him about two months before I left China.

Q. Did you go back to China again after that trip?

A. Yes.

Q. When?

A. In 1907—the next year after the earthquake.

Q. Did you make any trip in 1901?

A. In 1901, no.

Q. What year did you say you went back to China again?

A. In 1907. Let me see— which trip have you been asking me about now?

Q. You say you came back here in 1897?

A. Yes.

Q. When was the next time you went to China?

A. Well, the next trip—I remember that I went in Kwong Sue 22, and then in Kwong Sue 27 I make a trip again.

The INTERPRETER.—Kwong Sue 27 is 1901.

Q. 1901? A. Yes.

Q. How long did you stay that time?

A. Just about a year.

Q. While you were there in 1901 did you visit Yee Chung's family? A. Yes.

Q. Was Yee Chung there?

A. No, he was not there.

Q. Where was he?

A. He came back to the United States.

Q. Now then after you came back that time did

(Deposition of Yee Foo.)

you make any trip to China? A. Yes.

Q. What year was that?

A. That was in 1907—after the earthquake one year.

Q. One year after the earthquake? A. Yes.

Q. Now then on that trip did you see Yee Chung?

A. Yes.

Q. He was in China then, was he?

A. He was in China.

Q. How long before you got there had he got there to China? [169]

A. He got there before I did; I think he got there pretty near 10 months before.

Q. About 10 months before you got there?

A. Yes.

Q. Did you make another trip to China after that?

A. No.

Q. Now I show you this picture and ask you whether or not it is the Yee Chung you are speaking about? A. Yes, that is Yee Chung, sure.

Q. That is Yee Chung sure? A. Yes.

Q. Can you swear that this is the boy that grew up as the son of Yee Kim Sing? A. Yes.

Mr. McNAB.—I have shown the witness the photograph on the upper left-hand corner of “Defendant’s Exhibit ‘A’ at San Francisco.”

Q. Just one question, if the Court should deem it material. Mr. Yee Foo, when a passenger to the United States from China before the Exclusion Law bought his ticket did he go to the steamship company to buy the ticket?

(Deposition of Yee Foo.)

A. No, they *all through* the agent. The agent, he might hold all the tickets he can get, to make a profit on them; on account of sometimes more passengers coming, everybody want to buy tickets because the steamship only allow so many on each trip; when he get hold of some sometime he make from thirty to \$50 higher than what the steamship company get, because the steamship company never sell any tickets through their agent.

Q. Do you as a passenger give your name to the steamship company?

A. No sir, they never do; they give what they please; just like Charlie or Jones or whatever kind of name you go by, you give, and they give you a ticket—you can claim your name is Jones or you can claim your name is James and so on; they never give the right name. But now since the laws have been passed, when the steamship company sell the ticket he has to give the [170] name; they are now pretty strict, the last few years; they want the people to get the return certificate and show it before they will sell the ticket; that is in the last ten years.

Q. You must show your return certificate before you get your ticket?

A. Yes; they used to take any name at all.

Cross-examination.

Mr. SCHOONOVER.—Q. When was the change made?

A. I think it is after they registered; I think it was about a few years; I think a little over 10 years; about 10 years ago; they used to have to register but

(Deposition of Yee Foo.)

still they never minded at that time at all; lately, with so many going back, the steamship company would not let them go without showing the return certificate, so that there won't be any mistake about it.

Deposition of Harry Edsell, for Defendant.

HARRY EDELL, called for the defendant, sworn.

Mr. McNAB.—Q. Mr. Edsell, until recently, you have occupied the position of Assistant Commissioner of Immigration at the port of San Francisco?

A. Yes.

Q. In the absence of General Backus acting Commissioner? A. Yes.

Q. Prior to that time, Mr. Edsell, and while you were in the immigration service, where were you stationed?

A. Immediately prior to my coming to San Francisco I was stationed in Washington; prior to that in Montreal, Canada, and prior to that in Sumas, Washington, on the northern border of Washington, and prior to that at Port Townsend, Washington.

Q. At any of those stations, Mr. Edsell, did you have occasion to interest yourself and familiarize yourself with the manifests kept and maintained by the Canadian Government on incoming Chinese at the port of Vancouver? A. Yes. [171]

Q. At what point particularly did you have occasion especially to interest yourself in those records?

A. Well, at Sumas, as Chinese Inspector-in-charge

(Deposition of Harry Edsell.)

of the United States Immigration Service, I handled Chinese applicants for admission to the United States, who came to the American continent via the Canadian Pacific Steamship Company to Vancouver and by train to Sumas where they applied for admission to the United States. Very frequently questions would arise in connection with their applications for admission which would make it desirable to examine the manifests of the Canadian customs service at Vancouver.

Q. With a view to examining them and familiarizing yourself with them, did you cause any copies to be made of those records?

A. After I had been at Sumas for a time—

The COURT.—Q. By the way, where is Sumas?

A. On the northern border of Washington, about 50 miles from Vancouver. I had received so many inquiries from stations, interior stations in the United States and other ports of entry as to the departure of Chinese from the United States via Vancouver that I investigated the Canadian customs records with a view to making a copy of them so that we could answer questions concerning departures without referring them to the Canadian customs service. Incidental to that investigation I decided to make copies of certain records and sent a clerk over from my office to make these copies, and had him there for some weeks.

Mr. McNAB.—Q. About how many did you copy, do you remember?

A. Well, I should say from 800 to 1000; but it

(Deposition of Harry Edsell.)

should not be understood that those were in-coming records; those were all out-going manifests.

Q. During what year would those cover? Were they as far back as 1879? A. Oh, no.

Q. They were the modern records?

A. Yes. [172]

Q. Has there been any change in the Canadian system of registration during recent years?

A. I am not able to say.

Q. As I understand you used these records when a Chinese desired to depart from the United States, you consulted these records to ascertain whether or not the ship designated was actually the ship that he said that he was on?

A. No, not exactly that. A Chinese would come to San Francisco claiming to be the son of a merchant, for instance; the father claimed that he was in China at such a time as to make possible his paternity of that boy; he would claim that he had made the trip departing via Sumas and Vancouver; they would come to me for verification of the departure in order to determine whether the essential trip was proved.

Q. Did you find any mistakes in the records?

Mr. SCHOONOVER.—I object to that as immaterial.

The COURT.—Yes. This is going back the other way. The objection is sustained.

Mr. McNAB.—Q. Did you ever have any occasion to inspect the manifests of in-coming Chinese?

A. Yes.

(Deposition of Harry Edsell.)

Q. Over how long a period of time?

A. For no particular length of time, but for specific instances of arrivals.

Q. Find any mistakes in them?

Mr. SCHOONOVER.—I object to that as immaterial, irrelevant and incompetent, and calling for a conclusion of the witness.

The COURT.—Yes; that would open up a wide range of inquiry to find out whether these mistakes were mistakes in fact, if you wanted to pursue it down to any degree of definiteness.

Mr. SCHOONOVER.—And the Court would not want the opinion of the witness. It would want the facts.

Mr. McNAB.—Let me ask this question: I presume in your experience there you had cases where a Chinese would claim to [173] have come in on a certain steamer, and his name was not on the manifest; is not that correct?

A. I believe I have known of such instances.

Q. Did the Immigration Service consider that as conclusive evidence against them?

Mr. SCHOONOVER.—I object to that as it would have no bearing on this case, and would not in any way bind this court.

Mr. McNAB.—That may be quite true. I think it is a close point. My purpose, to be perfectly frank, is to show, if it is permissible under the rules of evidence, that if a name was given by a Chinese as coming in on an in-coming steamer, and on a search of the manifest that name was not found

(Deposition of Harry Edsell.)

there it was not taken as conclusive evidence that he did not come in on that steamer; in other words, that while in fact if his name was there, it might be taken as conclusive evidence, if all the identifying marks were there, yet the fact that his name was not there was not taken as conclusive evidence against him. That is all I want to prove.

The COURT.—I would rather suppose, in spite of whatever persuasiveness that fact might have on the Immigration Department that the Court would not be justified in leaning upon the Immigration Department for support in determining what conclusion should be arrived at in this case. I realize that it is a very important question in this case, but at the same time, as I indicated before, I know of no reason why this case should not be tried according to the rules of evidence that are applicable in court.

Mr. McNAB.—That is the only way I knew how to get at that. That is all, Mr. Edsell.

Deposition of Yee Hing Wo, for Defendant.

YEE HING WO, called for the defendant, through the interpreter, sworn, testified as follows: [174]

Mr. McNAB.—Q. What is your business?

A. Drug business.

Q. Where is your place of business located?

A. Dupont Street.

Q. What number? A. 830.

Q. A large store or small store?

A. A large store.

(Deposition of Yee Hing Wo.)

Q. Where were you born? A. In China.

Q. When did you arrive in San Francisco first?

A. In the sixth year of Kwong Sue (1880).

Q. Did you know Yee Kim Sing, a merchant in San Francisco before you came to San Francisco or did you make his acquaintance after you arrived here?

A. I made his acquaintance after I arrived in the United States.

Q. Who sent you to San Francisco—how did you happen to come?

A. I came here by myself, on my own responsibility.

Q. Were you connected with the same house in Hong Kong?

Mr. SCHOONOVER.—I prefer that you ask what house, if any, he was connected with.

Mr. McNAB.—Q. Were you connected with any house in Hong Kong before coming here?

A. Yes.

Q. What house was that?

A. Wong Ting Chung.

Q. Had that any connection with the firm that Yee Kim Sing was working for?

A. Yes, he was connected with that firm.

Q. Now, after you arrived at San Francisco where did you go to engage in business?

A. Quong Wah Chung.

Q. What street and what number?

A. 728 Sacramento Street.

Q. Were you a member of that firm? A. Yes.

(Deposition of Yee Hing Wo.)

Q. Was Yee Kim Sing a member of that firm?

A. Yes.

Q. What business did he do in that firm, what was his part of the work? A. He was bookkeeper.

Q. Now at the time you arrived from China in 1880 did Yee Kim Sing have any children?

A. Yes, he had one son.

Q. About how old was the son when you arrived here? A. 4 or 5 months old.

Q. What did Yee Kim Sing do after that; did he go anywhere? [175]

A. In Kwong Sue 7, the latter part of the year, he went back to China.

Q. Who did he take with him, if anyone?

A. He took his wife and child back with him.

Q. Did Yee Kim Sing come back to San Francisco or did he remain in China?

A. Yes, he came to the United States.

Q. Did he bring his wife and boy with him, or not? A. No.

Q. When did you go to China first after coming here?

A. The 9th year of Kwong Sue (1883)?

Q. How long did you stay in China?

A. I stayed—I came back here in the 10th year (1884).

Q. When you arrived in China was Yee Kim Sing there?

A. When I went there to China Yee Kim Sing was not there at that time.

Q. Where was he?

(Deposition of Yee Hing Wo.)

A. He was in San Francisco, at Quong Wah Chong's store.

Q. When you went back to China did you take anything back with you to Yee Kim Sing's family?

A. Yes, I did.

Q. Who did you take it from and who did you take it to?

A. You mean did I take anything back to Yee Kim Sing's family?

Q. Yes. A. Yes, I took some clothes.

Q. From whom? A. Kim Sing.

Q. Who were the clothes taken to?

A. Taken to the wife.

Q. Now, then, when you were in China did you see this baby of Yee Kim Sing's and the wife?

A. Yes.

Q. How long did you stay in China that time?

A. I came back here in the 10th year of Kwong Sue.

Q. About how old was this baby at that time,—how old did it look? A. About four years old.

Q. What was his name? A. Yee Chung.

Q. When did you go to China again?

A. Kwong Sue 15th year (1889). [176]

Q. How long did you stay in China that time?

A. I came back to the United States in 1891.

Q. You were there then about two years, were you? A. Yes.

Q. While you were back there, did you see Yee Chung and his mother? A. Yes.

Q. About how many times? A. Many times.

(Deposition of Yee Hing Wo.)

Q. How old was the boy then?

A. About 12 years old.

Q. About how big was he; point out with your hand? A. About that big (illustrating).

Q. Now, after you returned to San Francisco about 1891, I think you said, how long did you remain in San Francisco before you went to China again?

A. I went back there again in the 24th year of Kwong Sue (1898).

Q. How long did you stay in China?

A. I came back the next year.

Q. During the time you were there did you see Yee Chung's family?

A. I went to his house and he was not there—he had come to the United States. But I saw his mother.

Q. Yee Chung had come to the United States?

A. Yes.

Q. Now, ever since you returned to China in 1900 where have you lived? A. At Po Shang Tong.

Q. Is that the drug-store? A. Yes.

Q. I show you this picture and ask you whether or not you recognize that as Yee Chung (showing)?

A. Yes.

Q. I ask you whether or not you recognize this as the face of a boy that you knew as Yee Chung when you left China the last time? A. Yes.

Mr. McNAB.—The witness was shown the picture in the upper lefthand corner of "Defendant's Exhibit 'A' at San Francisco."

(Deposition of Yee Hing Wo.)

Q. Have you seen Yee Chung since he came to San Francisco in [177] the last few years?

A. Yes; this year I seen him in the United States.

Cross-examination.

Mr. SCHOONOVER.—Q. When was the last time you saw him in China?

A. The 15th year of Kwong Sue.

Q. Then, where did you next see him?

A. In the first year of Shun Ning (1909).

Q. It was ten years from the time you saw him in China until you saw him again in this country, was it? A. Yes.

Q. Where did you see him in this country in 1909?

A. He used to come to my store, and sometimes I would go to his store, Quong Ting Ching's; sometimes I would go to his place to visit and sometimes he would come to my place to visit.

Q. How often did he visit you in 1909 in San Francisco? A. He came continuously.

Q. How long was he here in 1909?

A. Over a month, and then he went back east.

Q. When you first saw him in San Francisco in 1909 who told you it was Yee Chung?

A. I recognized him myself.

Q. Who told you he was here?

A. As soon as he came ashore he came to see me.

Q. He came to your place of business?

A. Yes.

Q. Did he tell you who he was?

A. I recognized him when he came to see me.

(Deposition of Yee Hing Wo.)

Q. You recognized him as a boy you had seen in China; is that what you mean? A. Yes.

Q. How long have you been in this country?

A. Well, I came here in the 25th year of Kwong Sue, and I have been here until now; I have been in business all of that time.

Q. What was your business before that, here in San Francisco?

A. I was at Quong Wah Chung's store. [178]

Q. Is that the only store you were ever in except the drug-store that you are in now in San Francisco?

A. That is the only store.

Q. Is this business you are in now a firm business? A. Yes.

Q. How many members of the firm?

A. There are over 30 interested in it, but there are about 12 in the store.

Q. They have 12 partners? A. Yes.

Mr. McNAB.—I think there was some confusion as to when the witness first came to the United States.

Q. When did you say that you first came to America, in what year?

A. In the 6th year of Kwong Sue (1880).

Mr. SCHOONOVER.—Q. What do you handle in your business that you are in now?

A. I handle drugs.

Q. Wholesale or retail?

A. Wholesale and retail.

Q. How big a room do you occupy in your busi-

(Deposition of Yee Hing Wo.)

ness? A. A very large store.

Q. Is your trade wholly with Chinese?

A. Yes.

Deposition of James H. Clark, for Defendant.

JAMES H. CLARK, called for the defendant,
sworn.

Mr. McNAB.—Q. How old are you, Mr. Clark?

A. I am in my 64th year.

Q. Where were you born? A. New York.

Q. What is your business?

A. Merchandise and insurance broker.

Q. Where do you do business chiefly—with what class of people? A. Chiefly with Chinese people.

Q. How long have you been in business in Chinatown?

A. Well, I have been in Chinatown since I was a boy; I commenced there in 1868.

Q. They say you are the oldest man in Chinatown, I believe, do they not?

A. I believe that is what they say. [179]

Q. What business do you deal in chiefly with the Chinese? A. Rice, oil, tea and insurance.

Q. In dealing in these products during all these years has it been necessary for you to go from mercantile house to mercantile house? A. Yes.

Q. Did you know a Chinese merchant in San Francisco about the year 1879 or 1880 by the name of Yee Kim Sing? A. Yes.

Q. With what firm was he in business?

A. He was the bookkeeper for Quong Wah Chong & Company.

(Deposition of James H. Clark.)

Q. What street were they on? A. Sacramento.

Q. Do you remember what the number was?

A. I think the old number was 728.

Q. What business were they in?

A. They were running a regular Chinese store, rice, oil, tea and tobacco.

Q. How frequently were you in the habit of calling there? A. Five days in the week.

Q. Do you know where Yee Kim Sing lived?

A. He lived upstairs over the store.

Q. Were you ever up there? A. No.

Q. It is the habit of white men not to go into those places? A. Not at that time.

Q. Did you ever see his wife?

A. I saw a lady that I supposed was his wife.

Q. Where?

A. Sometimes in the morning I saw her in the store.

Q. Do you know of any child being born to Yee Kim Sing's wife?

A. According to my memory I think about 1880 or 1881 there was a child born.

Q. Did you see a child? A. I saw a baby.

Q. Where? A. Downstairs.

Q. Who had it?

A. This lady that I supposed was his wife.

Q. Do you know whether it was a girl or a boy?

[180] A. I could not tell you.

Q. You don't know? A. No.

Q. Now then, about that time, if you can recall, did Yee Kim Sing leave San Francisco?

(Deposition of James H. Clark.)

A. About that time, I think it was about 1881 he left San Francisco.

Q. According to your recollection? A. Yes.

Q. Where did he go? A. I suppose to China.

Q. Who went with him?

A. This lady and the child.

Q. Did Yee Kim Sing come back to San Francisco? A. Yes.

Q. Did the lady and child come back with him?

A. I never saw them.

Q. After Yee Kim Sing came back to San Francisco did he continue to do business?

A. He continued to do business, yes.

Q. About how long, if you remember?

A. I think he quit his position about 1896.

Q. Where did he go then, if you know?

A. I don't know.

Q. You don't know? A. No.

Q. You say he was bookkeeper?

A. Bookkeeper.

Q. Have you ever met this Yee Chung who is the defendant in this case? A. Yes.

Q. About how long ago did you meet him?

A. The last time, it appears to me, as near as I can remember, was about six years ago. I met him in Quong Ting Shing's store.

Q. Who introduced you to him?

A. They did not exactly introduce him; they told me he was the old bookkeeper's son.

Mr. SCHOONOVER.—I object to that.

The COURT.—Let the answer go out.

(Deposition of James H. Clark.)

Mr. McNAB.—Q. Who was with him when they told you?

A. I think it was about the Chinese New Year's I went there; I am [181] not quite sure, and I think that that gentleman over there was with him.

Q. This gentleman over in the corner with the glasses? A. No.

Q. The one who just left the witness-stand?

A. Yes.

Q. Mr. Yee Hin Wo? A. Yes.

Q. Did you know Yee Hin Wo, the gentleman you referred to when he came to San Francisco the first time?

A. I met Mr. Yee Hin Wo in Quong Wah Chong's store.

Q. That is the store in which Yee Kim Sing was bookkeeper? A. Yes.

Q. About how early a date?

A. Well, they started in business—it was about the time of the Tilden excitement; it must have been in the latter part of 1876 or the beginning of 1877.

Q. He was in the firm then?

A. He was the manager of the firm.

Q. That is, the gentleman who has just left the stand was the manager of the firm? A. Yes.

Q. By the way, did you know Yee Foo who testified before?

A. Yes, I am well acquainted with him.

Q. What business is he in?

A. He is manager of Wing Hing Ling & Company.

Q. What is the size of that firm?

(Deposition of James H. Clark.)

A. A very large firm.

Q. What is the size of Yee Hin Wo's business?

A. It is a smaller business.

Q. These men who testified here this morning are all merchants?

A. I did not hear them all; the only testimony I heard—I just heard Yee Hin Wo's testimony.

Q. Do you know Yee Foo?

A. Yes, he is a partner in Wing Ting Ling & Company.

Q. A large business?

A. They do a very large business.

Cross-examination.

Mr. SCHOONOVER.—Q. How long were you engaged in the business, Mr. Clark?

A. I started in business when I was a boy in 1868.
[182]

Q. You have sworn to the identity of a great many Chinamen during that time, have you not?

A. Yes, to quite a number.

Q. In the Immigration Department of the Government? A. Yes.

Q. By quite a number how many do you mean probably, all told? A. Probably 75 or 100.

Q. Do you think 75 would cover the total number?

A. I think it would.

Q. Your whole business was to sell Chinese goods, I understand, during all of this time? A. Yes.

Q. Or else to write merchandise insurance?

A. Yes. I have only been in the insurance business about three years.

(Deposition of James H. Clark.)

Q. Up to that time your business was to sell them goods? A. Yes.

Q. You made some mistakes in your sworn testimony, did you not, as to the identity of some of these Chinese for whom you were testifying?

Mr. McNAB.—I object to it as immaterial; there is no question of identity involved in this witness' testimony here and therefore it would not be competent.

The COURT.—Yes.

Mr. SCHOONOVER.—That is true, but if a witness is mistaken as to the identity, that tends to affect his credibility as to identifying a man.

The COURT.—All he testified to of any importance was the fact that this Yee Kim Sing had a child in San Francisco.

Mr. SCHOONOVER.—I am asking if he has not made some mistakes in his testimony, with reference to identity.

The COURT.—The objection is sustained.

Mr. SCHOONOVER.—Q. You are still in this merchandise insurance? A. Yes. [183]

Deposition of Yee Shun Chung, for Defendant.

YEE SHUN CHUNG, called for the defendant, through the Interpreter, sworn, and testified as follows:

Mr. McNAB.—Q. What is your business?

A. I am interested in the firm of Wing Hong Shing, a general merchandise store.

Q. Where is that store located?

A. 816 Washington Street.

(Deposition of Yee Shun Chung.)

Q. About how large a business does that firm do in Chinese merchandise every year in San Francisco? A. Over *twenty ten* thousand dollars.

Q. About how much does it pay to the United States Government in duties on imported goods every year? A. About \$40,000.

Q. That is paid in cash to the United States Government every year?

A. Yes, about that; sometimes as much as \$50,000.

Q. Sometimes as much as \$50,000 a year?

A. Yes.

Q. When did you come to San Francisco first?

A. The 3d year of Kwong Sue (1877).

Q. Did you know Yee Kim Sing when he lived in San Francisco? A. Yes.

Q. What was his business and where was he engaged in business?

A. 728 Sacramento Street, with the firm of Quong Wah Chong, a general merchandise store.

Q. What position did Yee Kim Sing occupy there? A. He was a bookkeeper there.

Q. Do you remember of Yee Kim Sing going to his country, to China? A. Yes.

Q. Now, before Yee Kim Sing went to China, do you know anything about any child being born to his wife?

A. Yes, at the time he went back to China he had a small boy.

Q. Do you remember the fact that the child was born? A. Yes.

Q. Tell us what you knew about it?

(Deposition of Yee Shun Chung.)

A. I knew that he was born in the very first or second month of the 6th year of Kwong Sue [184] Sue, in the upstairs of Quong Wah Chong's.

Q. Was there any Chinese custom, any Chinese celebration of any kind about the birth of that child?

A. Yes, there was.

Q. Tell us, what it was and whether you were there?

A. Yes, I went to the shaving feast.

Q. When did you go to China first?

A. In the 7th year of Kwong Sue (1881).

Q. Do you remember after the baby was born Yee Kim Sing going back to China? A. Yes, I do.

Q. Who went with him?

A. The three of them, the father, mother and child.

Q. What was the child's name, if you know?

A. Yee Chung.

Q. You say you went to China in 1881. Where was Yee Kim Sing at that time?

A. I saw him in his native village in China.

Q. About how long before you went to China had Yee Kim Sing gone to China?

A. He went to China several months before I did.

Q. How many years did you remain in China?

A. About 5 or 6 years.

Q. Now, during that time did you see Yee Kim Sing's wife and this baby boy? A. Yes.

Q. About how often? A. Two or three times.

Q. When did you go to China again?

A. On the 24th year of Kwong Sue (1898).

(Deposition of Yee Shun Chung.)

Q. When you went to China in 1898 was Yee Chung there?

A. He had come back to the United States.

Q. Did you see his wife? A. Yes.

Q. Did she have any babies?

A. Yes, I saw one boy.

Q. When did you go back to China again?

A. The 29th year of Kwong Sue (1903).

Q. How long did you stay in China that time?

A. I came back in the 31st year of Kwong Sue (1905). [185]

Q. During the six years that you were in China did you see Yee Chung's wife and family?

A. No.

Q. You did not see them? A. No.

Q. First of all did you see Yee Chung in China?

A. No.

Q. Did you see any of his family, or not?

A. Yes, I saw his wife there.

Q. Did you see any children?

A. Yes, I saw the son.

Q. How old do you think Yee Chung was when you saw him last in China? I withdraw the question and will get at it in a different way.

The INTERPRETER.—He is figuring it. He says he does not know exactly. He was about 4 or five years old then.

Q. When was the next trip that you went back to China after 1903?

A. The 3d year of Shun Nung (1911).

Q. Now, before you took that trip in 1911, did you

(Deposition of Yee Shun Chung.)

see Yee Chung anywhere? A. Yes, I did.

Q. Where did you see him?

A. I never saw him at the time I went back to China; he was back east.

Q. Did you see Yee Chung in San Francisco at any time?

A. I saw him once in San Francisco.

Q. About when?

A. I saw him in the first year of Shun Ning, in San Francisco (1909).

Q. Where did he come from?

A. He came from China.

Q. Where did he go?

A. He went back east to Pittsburg.

Q. Did you go back to China after that?

A. No, not since I went back to China the last time in the 3d year of Shun Ning (1911).

Q. When you went back in 1911, did you see Yee Kim Sing?

A. Yes, I went to his house and visited him.

Q. Did you see Yee Chung's wife? A. Yes.

Q. Did you visit Yee Kim Sing often?

A. Yes, very many times.

Q. Did you have any conversations with him about his family, his son and others?

A. Yes, I did. [186]

Q. State whether or not you can identify that picture which I now hand you as the Yee Chong whom you have been speaking of as the boy?

A. That is the boy.

Q. Is it the same person whom you knew as a boy?

(Deposition of Yee Shun Chung.)

A. Yes.

Mr. McNAB.—The witness is shown the photograph heretofore shown the other witnesses in the upper lefthand corner of the paper marked “Defendant’s Exhibit ‘A’ at San Francisco.”

Q. How old are you now? A. 63 years old.

Q. You are still in this firm that you have spoken of on Washington Street? A. Yes.

Cross-examination.

Mr. SCHOONOVER.—Q. Did you see Yee Chong at any time between the time he was 4 or 5 years old when you saw him in China until you saw him in 1909 in San Francisco?

A. I saw him when he was 6 or 7 years old.

Q. That is the age that you thought about so long awhile ago, and finally said 4 or 5?

A. I saw him between the age of 5 and 7 years.

Q. How old was he in 1907 when you next saw him in San Francisco?

A. I did not see him until the 3d year of Shun Ning, which is 1911.

Q. How old was he then?

A. 12 or 13 years old.

Q. How old is he now?

A. He is 36 years old now.

Q. He was between 5 and 7 years old when you saw him last in China; is that right?

A. About 6 or 7 years old.

Q. You said on examination by Mr. McNab, that you only saw him once in San Francisco and that was in the year 1909; you said in answer to my ques-

(Deposition of Yee Shun Chung.)

tion that you saw him in 1911. What year was it you saw him? A. In 1911, not 1909.

Q. Did you see him at any time between the time you saw him in China when he was from 5 to 7 years old until one time you saw [187] him in 1911 when you saw him in San Francisco?

A. No, not until the 3d year of Shung Ning, or 1911.

Q. You identified this picture marked "Defendant's Exhibit 'A' at San Francisco," did you?

A. That is Yee Chong.

Q. That is a good picture of him at what age—when did he look like that?

A. About 36 years old.

Q. Is that the only picture you ever saw of him?

A. That is the only picture I ever saw of him.

The COURT.—Q. What year was it that you saw Yee Chung in China when he was 4 or 5 or 5 or 6 years old as you have said?

A. The 13th year of Kwong Sue (1887). He was about 6 or 7 years old at that time.

Q. You spoke of having seen Yee Chong in San Francisco in 1911 and also having seen him in China in 1911?

A. No. I saw Yee Chong in 1911 in San Francisco here; I did not say that I saw Yee Chong in China in 1911.

Q. What year was it you saw him in China the last time? A. I saw him in 1911 in China.

Q. That is what I asked you a moment ago, and you said you did not?

(Deposition of Yee Shun Chung.)

A. I saw the father of Yee Chong in China in 1911.

Q. Didn't you say a moment ago that you didn't see Yee Chong in China in 1911?

A. No, I didn't say that; I didn't see him in China at that time.

Mr. McNAB.—I think there is a little confusion as to the interpretation.

The COURT.—When was the last time you saw Yee Chong in San Francisco?

A. In the year 1909.

Q. Give us the Chinese year?

A. Shun Ning, the first year of Shun Nung, the last part of the year.

Q. That is 1909? A. Yes.

Mr. SCHOONOVER.—What did he say before?

The INTERPRETER.—That was my mistake.
[188]

Mr. SCHOONOVER.—Q. You repeatedly asked him after he had answered the question before. How does it come that you made the mistake?

The INTERPRETER.—There is two words in Chinese very similar. It was my mistake. [189]

*In the United States District Court Within and for
the Southern District of California, Southern
Division.*

Hon. BENJAMIN F. BLEDSOE, Judge.

No. 911—CRIMINAL.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

YEE CHUNG,

Defendant.

Vol. II.

JOHN P. DOYLE,

Official Reporter Department 5, Superior Court,
Los Angeles, California.

Filed Mar. 23, 1916. Wm. M. Van Dyke, Clerk.
By Chas. N. Williams, Deputy Clerk. [190]

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Friday, May 21, 1915, 2 o'clock P. M.

(Depositions having been taken meantime at San Francisco.)

Mr. MOODY.—If the Court please, I understood it was agreed at the last hearing that the Government might have the opportunity of producing any further evidence at this time that they might desire, and so I would like to recall the defendant to the

stand. Yee Chung, for further cross-examination.
The COURT.—All right.

Testimony of Yee Chung, in His Own Behalf (Recalled—Cross-examination.)

YEE, CHUNG, defendant herein, recalled for further cross-examination, testified through interpreter Chan *Kiy* Sing, as follows:

Cross-examination (Resumed).

(By Mr. MOODY.)

Mr. MOODY.—If your Honor will recall, at the last hearing had here, the United States introduced a picture and at that time offered to introduce a record of the Immigration Office, showing that a man by the name of Yee Kim Sing made a trip to China in 1895, and this was a part of the record of the office at Vancouver, and at that time this record was refused. I would like to re-offer that at this time, and in connection with it would like to call the Court's attention to the opinion in 164 U. S., in the case of Sandy White vs. [192] U. S. at page 102 (handing volume to Court).

Mr. McNAB.—Have you the record there that you wish to offer?

Mr. MOODY.—This is the record, that you have already examined and about which the discussion occurred before.

The COURT.—How is this material?

Mr. MOODY.—This record which I offer here is supposed to be and is certified to be a record of the Vancouver office of the United States Immigration Service, and the point upon which it was refused

(Testimony of Yee Chung.)

before is that it is *ex parte*, and an affidavit and a statement of a man who says his name is Yee Kim Sing, and in his affidavit says he was a merchant at 40 Harrison Street, Boston, and it gives the physical description of the man. The point I wish to call your Honor's attention to is that in the case which I presented a mere police record was admitted in evidence without it being shown that the contents of that police record were obtained upon a sworn statement or upon any statement made by the man whose name it purported to be on the record, but it was admitted to show that a man by that name was in the police station at that time. The point I wish to make is that if the Supreme Court has decided that that is competent, then such a record as is kept by the immigration authorities under color of law and under the rules and regulations of the department, and which shows that a man, on affidavit, said that his name was Yee Kim Sing, and that he went out of the United States at [193] that time, that it is competent evidence to show that a man by that name, claiming to be the same man who was at 40 Harrison Street, did depart from the United States at that time. It may not be absolutely conclusive, and it is not claimed that it is absolutely conclusive, that that proves that man to have been the man who was in business at No. 40 Harrison Street, but it is conclusive that a man left this country at that time and at that place by that name, who claimed to be that same man, and that is the purpose for which it is offered at this time.

(Testimony of Yee Chung.)

The COURT.—Of course, this case is essentially different from that. Here is a case where the man who made the record was in court and testified that he had made it, and it is admitted as a memorandum made at the time the things transpired.

Mr. MOODY.—And at the same time this is made as a record of that department, as having been sworn to, having taken place at that time; they made this record at that time, and it is a record of that department.

Mr. McNAB.—It is not contended, is it, that Yee Kim Sing, or Yee Kim Shing, or any person claiming to be Yee Kim Sing or Yee Kim Shing was ever in court in this case and was examined?

Mr. MOODY.—No, and that is not the fact in the case I have cited.

The COURT.—What is the materiality of this, Mr. Moody? [194] I have forgotten.

Mr. MOODY.—The materiality of it lies in this—that this man claims his father was a man named Yee Kim Sing, who was a merchant at No. 40 Harrison Street, Boston; and he further says that this picture looks like his father; and the materiality of it lies in showing the actions of this man Yee Kim Sing relative to the actions that Yee Chung ascribed to Yee Kim Sing in his statements as to what his father did at the times he said his father did those things.

Mr. McNAB.—Before your Honor rules, I would like to make my objection.

The COURT.—Oh, yes, you will have an oppor-

(Testimony of Yee Chung.)

tunity to object. He testified that this looks like his father?

Mr. MOODY.—He testified that this looks like his father.

Mr. McNAB.—Your Honor, I would like to have the testimony on that question.

The COURT.—Yes.

Mr. McNAB.—He testifies that it is not his father.

Mr. MOODY.—No; he said at first it was not his father, and then upon reconsidering it he said it looked like his father.

Mr. McNAB.—Well, we will just see what the record says.

Mr. MOODY.—Page 78.

Mr. McNAB.—We object to the admissibility of this, if your Honor please, on the ground that it is incompetent, irrelevant and immaterial, that it does not intend to impeach [195] the witness; that it is *res inter alia acti*; that it is merely a record of proceedings taken with regard to a person not confronted upon this trial, which are not binding upon this defendant, a record of an action taken by a person not related to the trial, without any privilege on the part of this defendant of cross-examining him or showing anything in relation to it whatever. He was shown a photograph at the trial, and said, "Is this a photograph of your father as he appeared when you went down to Boston with him from Burlington, Vermont (exhibiting picture)?"

A. No. (After re-examining picture.) Yes, that looks like my father.

(Testimony of Yee Chung.)

Mr. SCHOONOVER.—I want to offer in evidence that partnership certificate there (handing paper to counsel).

Q. I will ask you if you remember testifying before the Commissioner here, Mr. Williams, in this same matter that when this picture just submitted to you now was submitted to you it was not a picture of your father.

Mr. McNAB.—He does not say now that it is a picture of his father; he says it looks like his father. His first statement was that it was not.

A. It was not this picture shown to me.

Q. Do you mean that the picture shown to you in the hearing here before the Commissioner was not the picture that was—that I just showed you here?

A. This looks more like my father, a resemblance to my father's picture, but it was not in the other one.

Q. You say this is a different picture, then, than was shown to you in the hearing before Mr. Williams, the Commissioner? [196]

A. It don't appear to me to be the same.

Q. That picture didn't look like your father looked when you saw him in Boston after you went down from Burlington, Vermont,—the picture that was shown to you before the Commissioner?

A. No.

Q. And this picture does look like your father looked at that time?

A. There was some resemblance of my father, but not exactly.

(Testimony of Yee Chung.)

Q. This? A. Yes.

Q. Ask him how his father differed from that in appearance.

A. He was not so fleshy at that time." If it were attempted to prove by a record here, if your Honor please, that a person by the name of Yee Kim Shing or Yee Kim Sing had admitted at any place that he departed from this country at a particular time, the mere attaching of a certificate to it would not make it admissible in evidence. At most it is a declaration or statement made by a person who is not a party to this record, and the mere addition of a certificate stating that it is found among the official records of a certain Department does not make it evidence in a court of justice. That sort of thing is very frequently used before a United States Commissioner and on hearings before inspectors, but we are here dealing with a question of evidence. It is an action between parties not parties to this record, which is not binding upon this defendant, and regarding matters over which we have no control by cross-examination.

In this particular case just offered here to-day the point at issue in the case is whether the man was or was [197] not in jail or was a witness at a certain particular time and place. Certain witnesses testified that he was not a witness at that time and was in jail, and they produced the records of the jailer to show that he was in jail at that time, it being one of the identical points at issue in the case.

Mr. MOODY.—And the further point at that time that the jailer failed to recognize the man. Now, if these records are of any importance whatever they are kept for one purpose, and that is to check the actions of Chinese in enforcing the exclusion laws, and if such a record as this is, is to be barred from production in a deportation case, then the United States is barred from a large part of the only kind of evidence that can possibly be produced in Chinese exclusion cases, that of checking the statements and actions of Chinese. In this case the document offered is not offered to prove anything other than that a man went out at that place and at that time who claimed that his name was Yee Kim Sing and he claimed that he was from 40 Harrison Street, in Boston, which is in all respects a record such as is prescribed to be kept by the immigrant inspectors at ports of the departure of Chinese persons intending to come back to the United States, and therefore, if your Honor please, I believe, in the light of this case, that being a criminal case, where the rules of evidence would be even more strict than in this case, which is a civil case, the [198] document should be admitted at this time for the purpose indicated.

The COURT.—You do not ask to have it admitted for the purpose of showing any fact that took place at that time or any fact that it is proper for the Government to record; you are seeking to have it introduced for the purpose of showing by the hearsay declaration of a third party that a certain in-

dividual did something at that time. Now, this will be admissible as evidence that the man whose picture is shown here went out at that time and place. I do not see anything to show that that took place, as a matter of fact. He went out, it is merely found, in Vancouver.

Mr. MOODY.—I think it shows on the red cover what it was for.

The COURT.—Yes, “Seen at Tacoma, Washington, January 4, 1896. Deported’”—departed, I suppose,—“on British Steamer ‘Victoria.’ ” Well, now, all that would be admissible in evidence for under any theory, would be the fact that an individual of whom this is a picture departed at that time. Not what he said about himself. Surely there is no principle of evidence—at least that I know anything about—that will permit you to produce a hearsay, unsworn, unofficial statement of somebody that is not here and never has been here before this court as evidence, and that is what you are seeking to do. You are seeking to show that this man said his name was Yee Kim Sing, and [199] that he belonged at 40 Harrison Street, Boston. He might have said a lot of other things and put them into an affidavit.

Mr. MOODY.—I admit that anything else other than showing the man’s name and place of residence would not be competent.

The COURT.—Well, why do you differentiate between anything else he may have said and giving his name? He might have given the wrong name.

The question is, is it competent? The name he gave is taken as a fact just as much as anything else. Suppose he stated in this affidavit that this man Yee Chung here had never been in the United States before; there would be no reason why you should introduce that in evidence as a fact against this man here.

Mr. MOODY.—It would not be any part of the officers' duty there to ascertain that, however.

The COURT.—It is no part of the officers' duty to ascertain these things. Anything that is a part of the officers' duty will be admitted in evidence, but it is no part of the officers' duty to know whether or not this man is telling the truth.

Mr. MOODY.—We will offer it, then, for the purpose of showing that a man of the facial characteristics of the one whose picture is shown on there left there at that time.

The COURT.—It will be admitted for that purpose. [200] That the individual whose picture is shown on that document departed at that time, and for that purpose only.

Mr. McNAB.—In view of the fact that that also was made before we had a chance to object, I would like to place before your Honor's ruling the objection. May we do that?

The COURT.—Yes.

Mr. McNAB.—We object to it on the ground that such proof would be incompetent, irrelevant and immaterial and not in any way binding upon this de-

fendant and not tending to prove any issue involved in this hearing.

The COURT.—The objection is overruled.

Mr. McNAB.—Exception. That is just the photograph, as I understand it.

The COURT.—Oh, no; the whole thing. But it is admitted only for the purpose of showing that the individual whose photograph is pasted on one of these sheets of paper departed as stated in the record. It is competent for that purpose, in my judgment.

Mr. McNAB.—I would like to call Mr. Moody's attention to the fact that at the hearing in San Francisco I presented to the Court and presented to Mr. Schoonover an affidavit from the passenger agent at Pittsburg, Pennsylvania, which I frankly stated was not admissible in evidence, and is not admissible in evidence, but I asked Mr. Schoonover, in view of the fact that immigration authorities have power to [201] ascertain the truth of these things practically within a few minutes by wire, whether or not he would confirm this through the Immigration Department and, if it was true, would admit it,—that is, whether Yee Kim Sing departed from Pittsburg, Pennsylvania, by way of Portal, North Dakota, for China, buying his ticket over said roads named here on July 1, 1907. This witness testified, I think, under cross-examination, that his father departed for China, stating it at that time—at that time I knew nothing about it, but I asked that some investigation be made back there, and in response to that—I

not knowing anything about the facts at all—this affidavit came on from the general passenger agent of the Baltimore & Ohio Railroad. Did you speak to Mr. Schoonover about that?

Mr. MOODY.—No, I did not.

Mr. McNAB.—Is he in town?

Mr. MOODY.—He is here now.

Mr. McNAB.—I would like, before the hearing is concluded, to consult him in regard to it.

Mr. MOODY.—Well, I will object to it if he does not expressly waive it, because it is the same proposition I have offered in evidence, which was turned down, and counsel proposes the same kind of evidence and asks that it be admitted.

Mr. McNAB.—No, it is not admissible, but if yours is admitted for any purpose this is admissible for as much.

The COURT.—Well, “as much.” Let us see what it is. [202] It has not been admitted for very much.

(Document handed to Court.)

Mr. DOCKWEILER.—I understood Mr. Schoonover was to investigate those dates and the passenger agent’s records, because if the facts stated in that affidavit are true they are absolutely corroborative of the witness’ statement with respect to the departure of his father on the last occasion for China.

Mr. McNAB.—I frankly stated to the Court that that is not admissible in evidence, but I asked the United States Attorney if he would kindly investigate it and admit it as a fact at the hearing.

(Testimony of Yee Chung.)

The COURT.—Well, if he does, all right and good; and if he does not, all right and good.

Mr. McNAB.—It is directly confirmatory of what the witness testified to.

The COURT.—All right. Proceed.

Q. (By Mr. MOODY.) Do you remember the date, November 17, 1909, when you were landed from the steamer “Manchuria” in San Francisco?

The INTERPRETER.—What date?

Mr. MOODY.—November 17, when he was examined by Inspector Long.

A. Yes, I remember that occurrence.

Q. And I will ask you if at that time this question was asked you and you made this answer: “Q. When did you depart [203] for the first time?

A. When I was two years old with my father, and returned K. S. 23, the eleventh month, on the ‘Empress of Japan,’ arriving at Vancouver, and went to Burlington, Vermont.”

A. Yes, sir, I did testify to that, but I don’t exactly remember that I was testifying the “Empress of Japan” or the “Empress.”

Mr. McNAB.—What is K. S. 23, Mr. Brazie?

Mr. Brazie.—1897.

Mr. McNAB.—(After conference with Mr. Schoonover.) With regard, if your Honor please, to the matter we were just discussing, this affidavit, Mr. Schoonover tells me that he was so busy that he did not have an opportunity to prosecute that investigation, and for that reason is not prepared to admit anything; therefore I think, very clearly, it is not admissible in evidence.

(Testimony of Yee Chung.)

The COURT.—It becomes, then, one of the closed incidents of the case.

Mr. McNAB.—I am sorry to say so.

The COURT.—And if it was admitted I would have sustained an objection on the ground that it is immaterial. It does not make any difference what became of Yee Kim Sing; the only question is whether Yee Kim Sing was this man.

Mr. McNAB.—It was only corroborative of his general statement with regard to his movements.

The COURT.—Well, it is out of the case. Go on.
[204]

Q. (By Mr. MOODY.) Do you remember in the same year, 1909, in November, on the 12th day, Inspector Mayer examining your relative to your right to re-enter the United States?

A. I remember the occurrence, but the date—I think I remember some of them.

Q. I will ask you if at that time and place you were not asked this question and did not make this answer: “Q. About how long did it take you to go from Vancouver to Montreal? A. Five or six days.” A. Yes.

Q. And this question: “Q. How long did you stay in Montreal? A. Over night.”

A. Not that. Several days; three or four days.

Q. You did not make that statement at that time?

A. No.

Q. And did you answer to this question as follows: “Q. How did you get out of Montreal? A. I boarded a train to Burlington. Q. Did you go

(Testimony of Yee Chung.)

straight to Burlington from Montreal without changing? A. Changed once. I don't remember at what place."

A. Yes.

Q. I will ask you if you remember on March 4, 1914, when you were being examined relative to your right to get a return certificate and re-enter the United States March 4, 1914, to Mr. Joseph H. Scully being the Inspector? A. Yes. [205]

Q. I will ask you if at that time and place, with the interpreter Lum J. Ying and the stenographer, A. A. Gilberts, you were not asked this question and made this answer: "Q. Have you any documentary evidence other than that which you have already presented, or any witnesses who can testify that you were born in the United States? A. I had papers that were lost during the wreck of the 'Dakota' and I have no witnesses who can testify for me now."

A. Yes, I did so testify, because I could not produce any witnesses then.

Q. I will ask you if at that time and place this question was asked you and you made this answer: "Q. What kind of papers were lost? A. A court record from Burlington. Q. Any other papers? A. No." A. Yes, sir.

Q. "Q. Was your photograph on the court record that was lost? A. With a picture attached."

A. Yes, sir.

Q. "Q. You have no other evidence, no witnesses? A. No."

A. Well, because I was required to produce evi-

(Testimony of Yee Chung.)

dence and witnesses at that very moment, and I couldn't get any then.

Mr. MOODY.—I object to the explanation and move to strike it out and ask him if he answered that question that way.

The COURT.—Yes, it will be stricken out. Ask him if he testified in that form—or gave that answer.
[206]

A. I replied that I could not produce them then, but I explained the matter to him.

Mr. MOODY.—I insist upon an answer yes or no as to whether you gave that answer to that question.

The COURT.—You are not entitled to an answer yes or no unless it can be so answered.

Mr. MOODY.—I asked him if he made that answer, your Honor, and he can tell me now yes or no, whether he made the answer or not. I want to find out whether or not he made that answer.

The COURT.—Yes. Read it again and ask him if he made that answer. Did he or did he not?

(Question reinterpreted.)

Yes.

Q. (By Mr. MOODY.) Now I will ask you if at your hearing before United States Commissioner Charles N. Williams in this city and in this building on August 6, 1914, and the continuances thereof—I don't remember whether this was the 6th or 7th—this question was asked you and you made this answer (p. 71 of the record): "Q. And to what part of China did you go? A. To Sun Ning, Chew Choy village." A. Chew Duey, yes, sir.

(Testimony of Yee Chung.)

Q. Ask him if he said Chew Choy was the village at that time? A. No, I said Chew Duey. [207]

Mr. McNAB.—Might I ask an admission at this time that these names, like the names of individuals, are spelled phonetically—by sound?

Mr. MOODY.—I have no objection to admitting that these names are spelled phonetically, but I do not admit that there can be the discrepancy there appears between these two names by a phonetic pronunciation and spelling.

Mr. McNAB.—Between Chow Duey and Chew Duey?

Mr. MOODY.—Chew Choy.

Mr. McNAB.—Your Chinese is not as excellent as your English.

Mr. MOODY.—I asked him if he stated that was the village he went to, Chew Choy,—call it what you may.

The COURT.—Well, he said no. Some of you gentlemen who have spent a good part of your lives in China—is there such a village as Chew Choy or Chew Duey?

The INTERPRETER.—I take the witness' own dialect, Chew Duey.

The COURT.—Well, is there a Chew Choy village in China?

The INTERPRETER.—Well, I don't know; I left there so long ago.

Mr. MOODY.—He testified it was only a village of one hundred people.

Mr. DOCKWEILER.—Mr. Gintchee was the in-

(Testimony of Yee Chung.)

terpreter on that occasion and he is here now, and Gintchee has just whispered in my ear that if there were ten interpreters in a case each [208] interpreter would probably give a different inflection, or, in interpreting, would spell it different.

The COURT.—Well, we are very thankful, then, that we are going to have only one in this case.

Q. (By Mr. MOODY.) On page 72 of the transcript, and at the same time, I will ask you if these questions and answers were made: “Q. Then from Vancouver where did you go? A. After *landing the* ‘Emperor of Japan’ in Vancouver, then take the rail direct to Burlington, Vermont, where my father intended me to meet him.”

The INTERPRETER.—What date is that?

Mr. MOODY.—The 6th or 7th of August, 1914.

A. No.

Q. You made that statement and answer—or that answer was not made? A. No.

Q. Then on page 73, at the same time and place: “Q. Well, then, after being arrested, what was done with you? Were you put in jail? A. After I was arrested and charged in custody my father came and bailed me out, and next day was to go before the United States Court.” A. Yes.

Q. Now, I will ask you if you remember the time on July 14, 1914, when you were arrested by Inspector Brazie in this city and examined by him, with Charley Levy as the interpreter? [209] A. Yes.

Q. I will ask you if at that time you did not answer to the question: “Q. What village did you marry in?

(Testimony of Yee Chung.)

A. Chow Duey village, Sun Ning District."

A. Chew Duey, yes.

Mr. McNAB.—That is where he was married?

A. Yes, sir.

Mr. DOCKWEILER.—Now, Mr. Interpreter, Mr. Moody says Chow Duey, and then your répy is Chew Duey. Is there any difference?

The INTERPRETER.—Well, there is the dialect spoken by so many Chinese in different sections of the country, and then if the interpreter pays particular attention to the sound that the witness uttered, then there would be only one; but the interpreter to use his own dialect, it would be different.

Mr. DOCKWEILER.—Well, what did he say, Chew Duey or Chow Duey?

The INTERPRETER.—Chew Duey, yes.

Mr. McNAB.—Do you understand the question that you asked him was whether he said he was married there?

(Interpreted.)

A. Yes, sir.

Q. (By Mr. MOODY.) I will ask you if you were asked this question: "Q. How many trips have you made to China? A. You make too much trouble. I don't want to talk to you [210] any more."

A. Yes.

Q. And this question: "Q. You stated you were born in San Francisco. What evidence have you of that? A. I had a native paper kept by my clansmen in San Francisco. I have to write to them about it now." A. Yes.

(Testimony of Yee Chung.)

Q. "Q. Where is this paper? A. I don't know who keeps my paper now. I will have to send a letter there to find it." A. Yes.

Q. "Q. Where did you get this native paper you speak of? A. I was born in San Francisco. I got it from San Francisco."

A. I said that the paper was kept by my clansmen, that I have to find out.

Q. Did you say: "I was born in San Francisco; I got it from San Francisco"? A. No.

Q. "Q. Did you go to China on that paper? A. Yes."

A. No, sir. I said I went to China with a paper I got in—I got it from Vermont.

Q. Well, I want to know if he made that answer that I read here.

A. I don't remember exactly what were the questions and my answers. [211]

Q. "Q. Where did you go from? A. I don't want to say anything."

A. I said I was going to San Francisco.

Q. "Q. When did you return from China? A. I don't remember."

A. No, sir. I told him that I arrived here on the steamship "Manchuria" on the third day of the ninth month.

Q. You didn't make this answer that I have read, then? A. No.

Q. "Q. Where did you land on your return? A. I was born in this country, and you have no right to bother me. I go anywhere I please." A. Yes.

(Testimony of Yee Chung.)

Q. "Q. Where did you land upon your return from China? A. San Francisco."

Mr. McNAB.—Is it contended that that is not true?

Mr. MOODY.—I contend that a great many of these statements that are made in here are not the truth.

Mr. McNAB.—Do you contend that statement is not the truth?

Mr. MOODY.—I am reading that statement to get the connection between that statement and the one that is to follow,—to give the witness the connection between that statement and the one that is to follow.

The COURT.—Proceed.

Q. (By Mr. MOODY.) "When did you land at San Francisco? A. I don't remember." [212]

A. Of course I don't remember the exact date.

Q. "Q. What steamer did you come on? A. I don't remember."

A. I told him it was the steamer "Manchuria."

"Q. Were you examined by immigration inspectors when you landed? A. I don't like to talk."

A. Well, because I was questioned so much about this matter, and then I saw there was no fairness to me, and then I refused to answer so many questions.

Q. Was this question and answer made: "Q. Did you show your native paper to anyone when you landed? A. No. No inspectors bother me while I travel around. You are the only one who come to bother me." A. No.

Q. "Did any inspector ever see your native paper?

(Testimony of Yee Chung.)

A. I don't want you to ask me such a question. I don't remember at all."

A. No, I didn't say that.

Q. "Q. Have you any papers to produce showing your right to be and remain in the United States?

A. No." A. I told him I had papers.

Mr. MOODY.—That is all. [213]

Redirect Examination.

(By Mr. McNAB.)

Q. Do you remember that it was this Mr. Brazie sitting at the table here that asked you these questions in Los Angeles?

Mr. DOCKWEILER.—Stand up, Mr. Brazie.

(Mr. Brazie stands.)

A. Yes.

Q. (By Mr. McNAB.) Now, what were the circumstances of this man having you at this office at this time? How did he happen to take you there?

A. He arrested me; took me up there saying that I had no paper here.

Q. Where did he take you, do you remember?

A. Up to his room.

Q. Did you have any friend or lawyer present?

A. No, sir; only he and that man there.

Q. By "that man there" you mean the Chinese interpreter sitting behind Mr. Brazie (Mr. Levy)?

A. Yes.

Q. What did Mr. Brazie tell you that he took you to this office for?

A. He said I had no certificate of residence.

Q. Now, some question was asked you about a na-

(Testimony of Yee Chung.)

tive paper. What paper were you talking about when you talked to him? [214]

A. He asked me whether I had a certificate of residence. I told him I had not, because I was born in the United States.

Q. Where did you tell him you were born in the United States?

A. I told him I was born in San Francisco.

Q. What paper, if any, did you tell him that you had?

A. I told him I had a paper to prove that I was born in the United States.

Q. What paper did you refer to?

A. That is the paper I obtained from Vermont.

Q. Do you mean the judgment before Commissioner Johnson in Burlington, Vermont, that you testified to when you were on the stand before?

A. Yes, sir.

Q. Now, you said this paper concerning which the District Attorney has asked you these questions makes you to say that you did not remember when you landed in San Francisco. As a matter of fact, did you land at San Francisco and pass through the immigration inspectors and were landed there in 1909? A. Yes, sir.

Q. How were you at the time this examination was being taken by this Mr. Brazie—were you angry or otherwise?

A. Well, because on my way to San Francisco, I was hauled up by him, and I was a little angry.

Q. At that time did you have with you any papers

(Testimony of Yee Chung.)

showing [215] your right to be or to remain within the United States? A. No.

Q. Did you have with you when you returned from China the paper showing your right to be in the United States? A. Yes, sir.

Q. Where had you left that paper?

A. Why, the paper was taken up from me when I presented my application to go to China.

Q. And what year was that?

A. It was in the second month of last year.

Q. What did you mean by saying, as this paper says you stated, that you had no witnesses when they asked you on the hearing whether you had any witnesses?

The INTERPRETER.—That is in San Francisco?

Mr. McNAB.—Yes.

A. I was required then and there to produce witnesses and other evidence. I told him I could not then.

Q. As a matter of fact had anybody before that time ever questioned your right to be in the United States since the time you were before Commissioner Johnson?

The INTERPRETER.—That is Johnson in Vermont, is it?

Mr. McNAB.—Yes.

A. No, sir.

Q. Is that the first time since the time you were released by Commissioner Johnson that anybody ever questioned your right or arrested you and charged that you had no right [216] to be in this

(Testimony of Yee Chung.)

country? A. No, sir.

Q. When you went to China in 1907 were you arrested or told that you could not go because you had no right to be in this country?

A. At the time when I returned?

Q. At the time when you went to China, in 1907.

A. No, sir.

Q. Why did you not fully answer all the questions that were asked of you by Mr. Brazie when you were arrested in Los Angeles?

A. Well, because the way that I saw there, I could get no fair treatment. I was questioned so much, and I didn't feel like to say all what I should like to—or that I would otherwise say.

Mr. McNAB.—That is all.

Recross-examination.

(By Mr. MOODY.)

Q. In what way were you treated unfairly in this hearing?

A. That is what I heard; the reputation; that they always denied your right.

Q. Well, how were you treated unfairly up here at this time that you claim Mr. Brazie treated you unfairly?

A. Because I was taken there into a small room. I was [217] there myself, alone.

Q. You were given an opportunity to tell the truth, were you not? A. He said so; that is all.

Mr. MOODY.—That is all.

(Examination by the COURT.)

Q. If I remember your testimony at the other

(Testimony of Yee Chung.)

hearing correctly, you said you came from China to Vancouver on the "Emperor" or "Empress of Japan" in 1897.

A. As I remember. I think I said that "one of the Empresses"—of the steamers.

Q. Well, it was the "Empress of Japan," was it not?

A. I believe I only said "one of the Empress steamers."

Q. When you bought that ticket in China did you give your name to anybody?

A. I bought the ticket at one of the stores in Hong Kong.

Q. I didn't ask you that. I asked you if when you bought that ticket you gave your name to anybody.

A. No; I bought it because at that time those stores in Hong Kong—

Q. I didn't ask you that at all. Tell him I didn't ask him that. I asked him if when he bought his ticket he gave his name to anybody.

A. I told my name, but they said that the ticket was [218] from the store, because each store has a certain number of tickets for sale.

Q. Who did you tell your name?

A. The store where I stayed.

Q. Where you bought your ticket?

A. Yes, sir.

Q. What name did you tell them was yours?

A. I told the party that my name was Yee Chung, and they said, "All right; that will do."

(Testimony of Yee Chung.)

Q. Yee Chung?

A. Yee Chung. And then I was told to take this paper along with the boat—or on the boat.

Q. Did you tell your name to anybody on the boat?

A. No, I was never questioned on board the ship.

Q. When you got to Vancouver did anybody ask you what your name was?

A. I showed them the paper.

Q. I didn't ask you that.

A. And I showed them the railroad ticket.

Q. I asked you, when you got to Vancouver did anybody ask you what your name was? A. Yes.

Q. Who asked you what your name was?

A. The Chinaman there asked us where we were going.

Q. You said somebody asked you there what your name was, and I asked you who that was. Can you answer that? [219]

A. There was a Chinaman attending to the passengers there.

Q. And did he ask you what your name was?

A. Yes, sir.

Q. What Chinaman was this?

A. I don't remember his name, but simply that he was a Chinaman working there, is all.

Q. Was he in the company of some white man?

A. Yes, there was white men.

(Last question read.)

Q. This Chinaman who asked you your name.

A. Yes.

(Testimony of Yee Chung.)

Q. Was he asking other Chinamen for their names in your presence?

A. At that time we were divided. Some was going to the British land on one side, and those who came to the United States on the other side.

Q. I asked you if he was asking other Chinamen for their names at or about the time he was asking you for your name.

A. I didn't hear him.

Q. You didn't hear him ask any other Chinamen for their names? A. No.

Q. How did he come to ask you for your name? What were the circumstances? [220]

A. I was asked, "Where does your railroad ticket entitle you to go to?" I told him "To Boston."

Q. What name did you give him?

A. I was not asked my name. I was asked *what* I was going.

Q. You say you were not asked *where* your name was? A. No, sir.

Q. Didn't you say awhile ago that a Chinaman asked you what your name was?

A. No; the Chinaman asked me where do my papers entitle me to go.

Q. Yes; but I asked you awhile ago if the Chinaman asked you what your name was, and I understood you to say that he did.

A. I didn't understand that, Judge.

Q. So no Chinaman asked you what your name was? A. No.

Q. Did anybody ask you what your name was, at

(Testimony of Yee Chung.)

Vancouver? A. No, sir.

Q. Did you hear any of the Chinamen there asked what their names were?

A. No, I didn't hear that at all, except that I was asked where I was going, that is all, and then I passed.

Q. And you didn't give anybody there your name?

A. No. I was not asked for my name. [221]

Q. Were you asked your age? A. Yes.

The COURT.—(To Interpreter.) Did he answer "Yes"?

The INTERPRETER.—(After reinterpreting.) Oh, no. I was not asked for my age.

Q. (By the COURT.) Were any other Chinamen there in your presence asked their ages?

A. I didn't know of that.

Q. How many Chinamen were on the boat you came over on?

A. Well, there were quite a number of men there; I don't know the exact number.

Q. How many Chinamen?

A. Well, quite a number. A big number of Chinamen there. I don't know exactly the number.

Q. A hundred or so? A. Yes.

Q. Did you at any time when you were on the boat or while you were at Vancouver hear any of those Chinamen asked as to what their names or ages were? A. I don't remember that I did.

Q. But you are positive, are you, that you were not asked for your own name or your own age?

A. Yes.

(Testimony of Yee Chung.)

The COURT.—That is all.

Mr. MOODY.—That is all.

Mr. McNAB.—That is all. Now, if the Court please, [222] I should like to ask for the introduction of pages 71 to 73, inclusive, of the transcript before the Commissioner at which Mr. Gintchee acted as interpreter for the Chinese defendant and Chinese witnesses.

Mr. McNAB.—Did you read all of this?

Mr. MOODY.—We read all of it except the parts that absolutely agree with what he says here. I didn't read that.

Mr. McNAB.—We have no objection. Shall I read it to the Court?

Mr. MOODY.—I do not think it is necessary. But any part you want to read in the argument, it will be satisfactory to us.

The COURT.—How many pages?

Mr. MOODY.—I am introducing three pages—71 to 73 inclusive.

The COURT.—Well, I don't want to determine this case without looking over this record, so I suggest that you give it to the reporter and have him copy that portion of it in the record.

(The said three pages are in the words and figures following, to wit:)

“A. Chinese groceries. Q. Chinese groceries?
A. Yes. Q. And how long did you remain in San Francisco after you were born? A. I remained in San Francisco about two years and then went to China. Q. Whom did you go to China with? A.

(Testimony of Yee Chung.)

My father and mother and myself, the three. Q. And to [223] what part of China did you go? A. To Sun Ning, Chew Choy village. Q. What province or canton? A. Kwong Tung province. Q. How long did you remain in China? A. I went back to China at two year old and returned to the United States at eighteen. Q. Eighteen? Mr. Archbald. What year? Mr. Dockweiler.—Eighteenth year. The Witness.—Yes. Q. At what year did you return? A. Kong Suey 23 year, the last part of the year. Q. On what boat did you come back, if you remember? A. ‘Emperor of Japan,’ way of Vancouver. Q. ‘Emperor of Japan?’ A. By way of Vancouver. Q. Did you land at Vancouver? A. Yes, landed in Vancouver. Q. Then from Vancouver where did you go? A. After landing the ‘Emperor of Japan’ in Vancouver, then take the rail direct to Burlington, Vermont, where my father intended me to meet him there. Q. You went to Burlington, Vermont? The Interpreter.—Where his father meet him there. Q. ‘Where my father met me,’ is that right? A. Yes, my father intended to meet me. Q. At the time you started from China where did you understand your father was then living? A. Why, before I left China I understood my father at Boston, because he sold the business in San Francisco and went to Boston for that other business. Q. Then when you started from China your father was in Boston then? A. Sang Sing & Company, Boston, doing Chinese general grocery or merchandise, Chinese store. [224]

(Testimony of Yee Chung.)

Q. Did anything happen to you on this trip before you reached Burlington, Vermont, and if so, what was it? A. Why, when I reached on the boundary line between Canada and the United States I was told that I can't go through. I have to be examined in that division. Q. 'I had to' what? A. Be examined. Q. 'I had to stand an examination,' is that it? A. Yes. Q. Do you know the name of the town on the boundary line that you went through in coming into the United States? A. I don't remember that now; I don't remember the name of that town. Q. Well, were you arrested in Vermont, and if so, about when? A. At that time I was a stranger in that direction; I couldn't remember the name, but all I know is they arrested me between the boundary line of Canada and United States, somewhere along there. Q. Well, then, after being arrested, what was done with you; were you put in jail? A. After I was arrested and charged in custody my father came and bail me out and the next day was to go before the United States court. Q. Before the United States court at what town; at what town? A. Burlington. Q. Burlington, Vermont? A. Vermont. Q. Now, why were you arrested, as you understood it? A. On this side is United States and the other side is Canadian, and Chinamen comes over here he has to be held up and examined." [225]

Mr. MOODY.—I notice in reading the transcript that there are a good many places where things are mentioned in the transcript to be included that are not in there, and I suppose that is because the rec-

(Testimony of W. A. Brazie.)

ords were sent back to San Francisco before they got in there. For instance, there are two circulars that were admitted after strenuous debate here; they do not appear anywheres in there; and there are certain lines of certain other documents that were used on cross-examination that were admitted and they do not appear.

Mr. McNAB.—Well, this is the transcript before the United States Commissioner?

Mr. MOODY.—Yes.

Mr. McNAB.—Is that the transcript you refer to as not included? I do not remember that those circulars were admitted. We were anxious to show that the action of Commissioner Edsall was based upon some new circular or regulation that had been issued, and I do not understand they went into evidence. I don't care one way or the other.

The COURT.—The only thing I remember now is that I stated—or at least I felt—that this Court was not going to be circularized in any decision of this case by any other department of the Government but that we were going to try to determine it upon our own responsibility.

Mr. McNAB.—Your Honor so states in the transcript just as your Honor now puts it. [226]

Testimony of W. A. Brazie, for Plaintiff (Recalled).

W. A. BRAZIE, a witness recalled on behalf of the Government, having been first duly sworn, testified as follows:

(Testimony of W. A. Brazie.)

Direct Examination.

(By Mr. MOODY.)

Q. On the 14th day of July, 1914, did you examine the defendant in this case, Gee Chung, respecting his right to remain in the United States?

A. Did you take a statement from him at that time? A. I did.

Q. Who acted as interpreter?

A. Charley Levy.

Q. I show you a statement here and ask you if that is the statement containing the questions and answers as you received them from him through the interpreter (handing document).

A. That is a correct transcript.

Q. Did you make that typewritten copy?

A. Yes, sir, I did.

Q. And you know it to be correct in all particulars? A. Yes, sir.

Q. At that time did you treat the defendant in a harsh, unseemly manner? A. No.

Q. Did you give him all the consideration that a gentleman is entitled to? [227]

A. I did. He was there for the purpose of being shown—

Mr. McNAB.—That is not in answer to the question.

The COURT.—Yes, answer the question. Did you or did you not?

Q. (By Mr. MOODY.) I asked you if you gave him due and courteous consideration. A. I did.

Mr. DOCKWEILER.—Your question was, “all

(Testimony of W. A. Brazie.)

the consideration he was entitled to.”

Q. (By Mr. MOODY.) Very well, all the consideration he was entitled to?

Mr. McNAB.—That is objected to as calling for a conclusion of the witness.

The COURT.—The objection is sustained.

Mr. MOODY.—I offer this statement in evidence, your Honor.

Mr. McNAB.—I have no objection to those portions which were read to the witness being introduced in evidence.

The COURT.—Those are all that are material.

Mr. MOODY.—Those are all that are material, and I read all the ones except those which are not material and which are in no wise contradictory to the ones now made by the witness.

The COURT.—You may mark those asked, and those will be admitted.

Mr. MOODY.—Well, I read pretty near everything in here, [228] your Honor.

The COURT.—Well, then pretty near everything will be admitted, if that is the case.

Mr. MOODY.—If counsel will show me which ones—

Mr. McNAB.—I didn't have an opportunity to see it, Mr. Moody; you will have to depend upon your recollection.

Mr. MOODY.—I will attempt to repeat the questions I have referred to and let the reporter copy them.

The COURT.—How much of it is there?

(Testimony of W. A. Brazie.)

Mr. MOODY.—There are three pages of it. I quoted pretty nearly everything in there. There are only a few questions that I did not ask.

The COURT.—Well, the reporter, when he comes to copy it, can tell which ones are admitted, and he can put in those on which he was examined. Let the reporter take it,—that is what he is paid for.

Mr. DOCKWEILER.—Well, put the whole thing in.

(Whole document filed as Exhibit —.) [229]

Cross-examination.

(By Mr. McNAB.)

Q. Are you an immigrant inspector?

A. Yes, an immigrant inspector.

Q. Where did you arrest Gee Chung?

A. At River Station of the Southern Pacific Railroad Company.

Q. From there where did you take him?

A. To the immigration offices.

Q. What did you tell him when you arrested him?

A. I asked him if he had a certificate?

Q. What did he say? A. He said no.

Q. What else did you ask him before you took him up to this room?

A. I don't know as I asked him a great deal of anything.

Q. Now, did you take this down in shorthand?

A. I did.

Q. Where was this room?

A. It is the examination room in the Immigration Service.

(Testimony of W. A. Brazie.)

Q. Who was present with you—anybody besides the interpreter? A. No one.

Q. Do you speak Chinese? [230] A. No, sir.

Q. Do you understand Chinese when it is spoken?

A. No, sir.

Q. Then you would simply take down what the Chinese interpreter gave to you? A. Yes, sir.

Q. Was this defendant angry?

A. Well, no, I can't say that he was.

Q. Well, now, didn't you say afterward that he was very angry? A. Did I say—

Q. Yes, didn't you say to Mr. Dockweiler that he was very angry? A. No, sir, I did not.

Q. Did you say that to anybody? A. No, sir.

Q. Well, was he angry?

A. Well, he was more or less excited, but I did not consider him what you would call angry, no. He objected to being under restraint, of course.

Q. He objected to being under restraint?

A. Yes.

Q. And when he said to you certain things to the effect that "I don't remember," and so on, was he not in a petulant and excited mood?

A. He was not in an excited mood, no. I explained to [231] him why he was there.

Q. Didn't you afterwards say, "If this man had presented this record I would have released him"?

A. No, sir.

Q. You did not?

A. I said we would have investigated him on the record; that we would—

(Testimony of W. A. Brazie.)

Q. How long did you keep him up in this room?

A. Well, I couldn't say exactly. He was not there over—well, not over three-quarters of an hour. I didn't time myself, but guessing at it.

Q. Did you commence the examination as soon as you took him into the room? A. I did.

Q. And kept at it steadily until you got through?

A. Yes. Well, now, if you will notice, that examination is taken on two different days. The first two pages I examined him and—

Q. How long a time did you put in the first time?

A. Not over three-quarters of an hour, I don't think.

Q. Then what did you do with him?

A. Placed him in the county jail of Los Angeles.

Q. How long did you keep him in jail?

A. Over night.

Q. What did you do with him next?

A. I went to him and asked for a statement from him again [232] to verify this matter.

Q. What did he say? A. It is in the statement.

Q. Was he angry?

A. No, he wasn't angry next day; he was perfectly cool next day.

Q. He had a chance over night to cool off, did he?

A. I suppose so.

Q. Well, have you recorded in this examination all the conversation that took place between you and him at the county jail? A. Yes, sir.

Q. You took the interpreter with you to the county jail, did you?

(Testimony of W. A. Brazie.)

A. Yes, sir, the second statement was taken at the county jail.

Q. And this examination was taken in a cell in the jail? A. No, he was brought downstairs.

Q. Into what room?

A. Into one of those consultation rooms there. I don't remember just exactly which one.

Q. Did he ask to see any lawyer or friend?

A. No, sir.

Q. He stated to you that he was not going to talk to you any more, didn't he? A. That is about it.

[233]

Q. He stated that you had no right to ask him any of these questions? A. Words to that effect.

Q. He stated to you that you were the first inspector that ever arrested him, did he?

A. He stated that to me up at the Immigration Office.

Q. Well, you knew, did you not, at that time, that he had actually returned from China and entered at the port of San Francisco?

A. No, sir, I did not. The first I ever knew of that was when that paper was produced at the trial before the Commissioner.

Q. You just simply took a flying chance and arrested him because he had no certificate with him?

A. We take that flying chance with all Chinese laborers who have no certificates.

Q. Was he not at that time just about to get on the train? A. I couldn't tell you.

Q. Well, he was at the River Station, was he not?

(Testimony of W. A. Brazie.)

A. He was at the River Station, yes, sir.

Q. About what time of the day?

A. About half-past three, I should judge.

Q. What train, do you know, was going out about that time or about due to depart?

A. The next train to San Francisco due at that time [234] 7:30 P. M.—leaving the Arcade Station at 7:30 P. M.

Q. Did you say there was no train until after 7 o'clock?

A. Not to San Francisco. The next train was No. 49 leaving the Arcade Station—that stops at River Station, I mean; it leaves River Station at 7:30.

Q. What was he doing at the time you arrested him there? A. Sitting in the depot.

Q. In the waiting-room?

A. In the waiting-room.

Q. And other Chinese with him? A. No.

Mr. McNAB.—That is all.

Mr. MOODY.—That is all. [235]

Testimony of Charlie Levy, for Plaintiff.

CHARLIE LEVY, a witness called on behalf of the Government, having been first duly sworn, testified in English, as follows:

Direct Examination.

(By Mr. MOODY.)

Q. You heard the statement, Mr. Brazie, that you were present and acted as interpreter at a statement taken on the 14th and 15th of July?

A. Yes, sir.

(Testimony of Charlie Levy.)

Q. Did you correctly interpret all questions and answers at that time? A. Yes, sir.

Q. And correctly interpreted them to the Chinese person and interpreted back into English his answers to Mr. Brazie? A. Yes, sir.

Mr. MOODY.—That is all.

Cross-examination.

(By Mr. McNAB.)

Q. What Chinese dialect do you speak?

A. The Sun Ning dialect.

Q. What dialect does Yee Chung speak?

A. The Sun Ning dialect.

Q. He came from the same part of China?

A. The same district. [236]

Q. The people of that district speak in the same dialect, do they? A. Yes, sir.

Q. How do you pronounce the name of the village that he said he was married in?

A. Cho Duey village is what he said.

Mr. McNAB.—He says Chow.

Q. How do you spell it?

A. Well, spelling it out in English makes it a little different sound; but it is pretty hard to get the correct spelling. The sound is just like you would hear a fellow speak. Chew Duey—I spell it C-h-e-w D-o-e-y,—or D-u-e-y—either way.

Q. Did you spell this out for Mr. Brazie?

A. I don't remember that.

Q. Well, when you give the name of a village in China when Mr. Brazie is examining anybody do you spell it out for him?

(Testimony of Charlie Levy.)

A. Well, sometimes the inspector wouldn't catch the sound and the interpreter maybe will repeat and spell it out. If the inspector catches the sound he don't need the interpreter to spell it out for him.

Q. Well, very often the inspector has to ask you over again to spell it for him, does he not?

A. At that time I did. I think I spelled it out for him. [237]

Q. You think you spelled it out for him?

A. I think I did, but I don't remember exactly.

Q. How did you spell it?

A. C-h-e-w D-o-e-y I think I spelled it at that time.

Q. Well, this is spelled C-h-o-w.

A. Well, that may be.

Q. Now, as a matter of fact, in all these names the spelling varies in nearly every case; no two people spell them alike when they hear them, do they?

A. No; it is hard to find them spelling them both alike.

Q. Do you know where the village of Chow Duey, or Cho Duey, is? A. No.

Q. Do you know where any of these villages are that have been mentioned here? A. No, sir.

Q. There are thousands of little villages in that province that you came from, are there not?

A. That may be; I don't know, myself.

Q. Where did you come from?

A. The Sun Ning district.

Q. But what village? A. Ngin On village.

Q. How do you spell it?

A. N-g-i-n O-n. That is the way I spell it.

(Testimony of Charlie Levy.)

Q. Is it mentioned on any map anywhere in China?
[238] A. I haven't seen it on the map myself.

Q. Ngin On—Chinese always translate that into English N-g, don't they?

A. N-g is "ng" (pronouncing phonetically).

Q. Well, how do you pronounce it?

A. "Ngin" (pronouncing phonetically) is the way I pronounce it.

Mr. MOODY.—That is all. No more testimony.

Mr. McNAB.—That is all. That is our case.

Mr. MOODY.—Does your Honor wish to proceed with the argument now?

The COURT.—Yes.

(Oral arguments.)

Adjournment. [239]

**U. S. Exhibit No. 2—Records of U. S. Commissioner
in Re Yee Chung—Certified Copy of Docket
Entries.**

PT. S. F. File 12017/2844.

United States of America,

District of Vermont,—ss.

To Geo. E. Johnson, Esq., United States Commissioner, within and for the District of Vermont, comes John H. Senter, United States Attorney in and for the District of Vermont, and on his oath of office complaint makes that Yee Chung late of Canton, China, heretofore, to wit: on the 28th day of December in the year of our Lord one thousand eight hundred and ninety-seven, at Richford, in the County of Franklin, in the State and District of Ver-

mont aforesaid, and within the jurisdiction of this court, was then and there a Chinese person, that is to say, a person of Chinese descent, unlawfully and without right within the United States, that is to say, at Richford aforesaid, contrary to the form, force and effect of the Statute of the United States in such case made and provided, and against the peace and dignity of the United States.

JOHN H. SENTER,

United States Attorney for the District of Vermont.

The foregoing complaint was exhibited to me this 31st day of December, A. D. 1897, and process then issued.

GEO. E. JOHNSON,

United States Commissioner for the District of Vermont. [240]

United States of America,
District of Vermont,—ss.

The President of the United States to the United States Marshal, Within and for the District of Vermont, or Either of His Deputies: Greeting:

BY THE AUTHORITY OF THE UNITED STATES OF AMERICA, You are hereby commanded to arrest the body of the said Yee Chung if to be found within your precinct, and have him forthwith before the subscribing authority at the office of Geo. E. Johnson, in Burlington in the District of Vermont aforesaid, that he may answer the foregoing complaint and be further dealt with according to law.

Given under my hand, at Burlington, in the County of Chittenden, in the State and District of

Vermont, this 31st day of December, A. D. 1897.

(L. S.)

GEO. E. JOHNSON,

United States Commissioner for the District of
Vermont.

United States of America,

District of Vermont,—ss.

At Richford, in said district, on this 1st day of
January, A. D. 1898, by virtue of the within warrant,
I arrested the body of the within named Yee Chong
and read the same in his hearing, and now have him
here in Court as within commanded.

Attest, EMERY S. HARRIS,

U. S. Marshal, for the Dist. of Vermont.

By James A. Kelley,

Deputy.

FEES:

Serving warrent.....	2.00
Transport Prisoner 62 miles.....	6.20
Discharge defend.....	.50
1 days attendence.....	2.00

10.70

[241]

[Endorsed]: 121. United States versus Yee
Chung. Complaint and Warrant. Filed this 31st
day of December, A. D. 1897. Geo. E. Johnson, U. S.
Commissioner for the Dist. of Vermont. Returned
served January 3, A. D. 1898. Geo. E. Johnson, U. S.
Commissioner. Heard Jny. 8. Dischged Jany. 19.

UNITED STATES DISTRICT COURT,
DISTRICT OF VERMONT,
CLERK'S OFFICE.

I hereby certify that the foregoing is a true copy of the original complaint and warrant of arrest in case United States vs. Yee Chung, with the officer's return thereon and the filing thereon, returned into Court by former U. S. Commissioner, George E. Johnson, at the expiration of his term of office, and now remaining in this office.

WITNESS MY HAND and the seal of said Court at the City of Rutland, in said District, this 20th day of August, A. D. 1908.

[Seal] FREDERICK G. SWINNERTON,
Deputy Clerk.

[Endorsed]: United States District Court, District of Vermont. United States vs. Yee Chung. Certified Copy of Complaint and Warrant. [242]

UNITED STATES

vs.

YEE CHUNG.

District Attorney.

Deputy Kelley in attendance.

Foster, D. J.

1897.

Dec. 31. Filed complaint of United States Attorney
for violation of Chinese Exclusion Acts.

“ “ Issued warrant of arrest.

1898.

Jan. 3. Warrant of arrest returned served, and respondent in Court.

“ “ Hearing continued until future date to be hereafter fixed.

“ 8. Hearing.

“ 19. Respondent discharged.

UNITED STATES DISTRICT COURT,
DISTRICT OF VERMONT,
CLERK'S OFFICE.

I hereby certify that the foregoing is a true copy of the docket entries in case of United States vs. Yee Chung, as appears by the dockets of former U. S. Commissioner, George E. Johnson, which were returned into Court by him at the expiration of his term of office, and now remaining at this office.

WITNESS MY HAND AND THE SEAL of said Court at the City of Rutland in said District, this 20th day of August, A. D. 1908.

[Seal] FREDERICK G. SWINNERTON,
Deputy Clerk. [243]

[Endorsed]: United States District Court, District of Vermont. United States vs. Yee Chung. Certified Copy of Docket Entries. 911-Crim. U. S. Dist. Court, So. Dist. Cal., So. Div. U. S. vs. Yee Chung. U. S. Exh. 2. Filed Apr. 3, 1915. Wm. M. Van Dyke, Clerk. By Leslie S. Colyer, Deputy. [244]

**U. S. Exhibit No. 1—Certified Copy of Record of
Immigration Inspector in Re Yee Shing.**

Form 551. Inclosure 2524 from U. S. Department of Labor Immigration Service, Port of ——. 14-756. Gen. No. 16. No. 53867/9 El Paso. Department of Labor, Washington, D. C., March 17th, 1915.

I HEREBY CERTIFY THAT THE ANNEXED IS A TRUE COPY OF THE ORIGINAL certificate dated March 8, 1915, signed by John L. Surbrick, Inspector in Charge, U. S. Immigration Service, Vancouver, B. C., together with original record of his office relating to Yee Kim Shing.

ALFRED HAMPTON,

Acting Commissioner-General of Immigration.

(Official Title)

OFFICE OF THE SECRETARY.

I HEREBY CERTIFY that Alfred Hampton, who signed the foregoing certificate, is now, and was at the time of signing, Acting Commissioner-General of Immigration and that full faith and credit should be given his certification as such.

IN WITNESS WHEREOF, I have hereunto subscribed my name, and caused the seal of the Department of Labor to be affixed this 17th day of March, one thousand nine hundred and fifteen.

[Seal]

LOUIS F. POST,

Assistant Secretary of Labor. [245]

Form 591

U. S. DEPARTMENT OF LABOR.

Immigration Service.

IMMIGRATION FILE

No. 5004

Subject:

772

Vancouver File.

U. S. DEPARTMENT OF LABOR.

IMMIGRATION SERVICE.

Office of Inspector in Charge

Vancouver, B. C.

March 8, 1915.

I hereby certify that I am Inspector in Charge of the United States Immigration Service at Vancouver, B. C., and, as such Inspector in Charge, am the lawful and actual custodian of all of the official records of said office. In said capacity I also further certify that the attached record, known as Old Richford No. 2729, relating to Yee Kim Shing, merchant and member of Sam Sing Lee Kee & Co., No. 40 Harrison Avenue, Boston, Mass., was transmitted to this office, June 16, 1911, by the Commissioner of Immigration at Boston, Mass., and now constitutes a part of the official records of this office as aforesaid.

[Seal]

JOHN L. ZURBRICK,
Inspector in Charge.

JFD. [246]

Office of
SPECIAL AGENT TREASURY DEPARTMENT.

Boston, Mass., September 23d, 1897.

Hon. Collector of Customs,
Boston, Mass.

Sir:—

I herewith return the paper of Yee Kim Shing, of the firm of Sam Sing Lee Kee & Co. No. 40 Harrison Avenue, who is recognized and claimed by Yee Dark Chung, Manager of the firm, as a member, having had an interest therein of not less than \$500.00 for seven years.

The witnesses to the paper recognize the photograph, and give correct name and place of business. They claim to know him by reason of having had business relations with him. The witnesses are rep-

utable citizens, and have been favorably reported on. The firm of Sam Sing & Co., has 57 partners, and carries a stock estimated to be worth \$14,000.

It appears to be doing a good business, and is considered a bona fide mercantile firm. So far as I am able to judge, from inquiries made by me, the man is a merchant and entitled as such to admission into the United States.

Very respectfully,

J. B. WHITTEMORE (?),

Chinese Inspector.

[Endorsed]: 2729. 2729. Special Agent Treasury Department —, 189—. — Special Agent. Subject: Yee Kim Shing. Favorable Reports. Sep. 25, 1897. [247]

I, Yee Kim Shing, on oath declare that I was born in Canton, China, on the thirteenth day of January, 1854, of Chinese parents; that in the year 1875 I came to the United States by way of San Francisco, California, where I resided nine years, during which time I was engaged in the Grocery business; from thence I came to Boston, Massachusetts, where I have resided ever since; that I am now a member of the firm of Sam Sing Lee Kee & Co., dealers in Chinese goods and other merchandise at the store numbered 40 Harrison Avenue, in said Boston; that my interest in said firm amounts to the sum of Five Hundred Dollars (\$500), and that I have other personal property and debts due me from various persons in this Commonwealth amounting to the sum of Six Hundred Dollars (\$600).

I further declare that I am not a laundryman or

other laborer, and that during the year last past, I have performed no manual labor other than such as was necessary in the transaction of my business as a merchant.

My present weight is 180 pounds; my height is 5 feet and 4 inches; my eyes are dark and my complexion olive; a correct photograph of myself accompanies this affidavit.

his

(Chinese characters) YEE X KIM SHING.

mark

Subscribed and sworn before me this 20th day of Sept., 1895.

[Seal]

FRANCIS S. FISKE,
United States Commissioner.

(Photograph with seal impressed on back of cover.) 911—Crim. U. S. Dist. Court, So. Dist. Cal., So. Div. U. S. vs. Yee Chung. Photograph. U. S. Exh. 1. Filed Apr. 2, 1915. Wm. M. Van Dyke, Clerk. By Leslie S. Colyer, Deputy. [248]



We, the undersigned, citizens of the State of Massachusetts, on oath declare that we have been acquainted with Yee Kim Shing who signed the foregoing affidavit in our presence, for more than one year last past, during which time we have personal knowledge that he has not been a huckster, peddler, laundryman or otherwise engaged in skilled or unskilled labor of any kind whatsoever, but that during all our acquaintance with him he has been a mer-

chant in good standing as a member of the firm of Sam Sing Lee Kee & Co., at No. 40 Harrison Avenue, Boston. We further declare that the declaration of the said Yee Kim Shing has been read aloud in our presence, and that we recognize the photograph attached as a correct likeness.

H. M. RAND,

297 Dorchester St.,

South Boston.

JOHN E. McKENNEY,

7 Common St.

Personally appeared before me this 20th day of Sept., 1895, the above-named Rand believed and McKenney known to me to be reputable persons whose statements are entitled to full credence and belief and made oath to the foregoing.

[Seal]

FRANCIS S. FISKE,

United States Commissioner.

Custom House, Tacoma, Wash. Jan. 4, 1896. Dist. Puget Sound. Seen at Tacoma, Wash., Jany. 4/96. Deported in Br. St. "Victoria." Walter Bowen, Special Deputy Collector. [249]

[Endorsed]: Yee Kim Shing. 2729. Sam Sing Kee Lee & Co. 40 Harrison Ave., Boston, Mass. (Chinese Characters.) 2729. (O.K. Sep. 27/97. R. C. G. Dep. Colr. Admitted Sept. 28/97. R. C. Gates, Dep. Colr.) (Underscored because uncertain.) See report in case of Chin Hing, No. 2571. Sep. 25, 1897. Sep. 10, 1897. McK. (Unintelligible figures and writing.) No. 467. U. S. vs. Yee

Chung Govts. Ex. 1. Chas. N. Williams, U. S. Commissioner.

[Endorsed]: No. 5004/772. No. 911—Crim. United States vs. Yee Chung. United States Exhibit No. 1. Filed May 21, 1915. Wm. M. Van Dyke, Clerk. T. F. Green, Deputy. Photo. [250]

**U. S. Exhibit No. 2—Statement of Yee Chung Before
Immigrant Inspector.**

U. S. DEPARTMENT OF LABOR,
Immigration Service.
Office of Inspector in Charge,
Los Angeles, California.

July 14, 1914.
4:30 P. M.

5532/108.

In Re YEE CHONG.

Status Under Investigation.

W. A. BRAZIE, Inspector-Stenographer.

CHARLEY LEVY, Chinese Interpreter.

(Examining Inspector, to Alien:)

Q. You are advised that I am a United States Immigration officer, with power to administer an oath; that a statement is desired from you touching your right to be and remain in the United States; such statement to be under oath and voluntary upon your part, and may be used for or against you in court. Do you wish to make a statement? A. All right.

Q. If, at any time during this examination, you do not thoroughly understand the interpreter, you are

requested to immediately notify me of that fact.

A. All right.

ALIEN, being first duly sworn, testified as follows:

Q. What are all your names?

A. Yee Chong. Yee Ni Yook, my marriage name.

Q. How old are you? A. 35. [251]

Q. Where were you born? A. San Francisco.

Q. When? A. K. S. 6-1-8.

Q. What is your wife's name?

A. (Hesitates.) I was born in this country. You don't need to stop me. I want to go to San Francisco.

Q. What is your wife's name?

A. Wong Shee; 35; natural feet.

Q. Where did you marry her?

A. I married her in China.

Q. What village?

A. Chow Doey village, Sun Ning district.

Q. Is she the only wife you ever had? A. Yes.

Q. How many children have you?

A. (No answer.)

Q. How many trips have you made to China?

A. You make too much trouble. I don't want to talk to you any more.

Q. You stated you were born in San Francisco; what evidence have you of that?

A. I had a native paper kept by my clansmen, in San Francisco. I have to write to them about it.

Q. Where is this paper?

A. I don't know who keeps my paper now. I will have to send a letter there to find it.

Q. Who will you send the letter to?

A. Yee Thet, 627 Commercial Street, San Francisco.

Q. Now, tell me how many trips you have made to China? A. (No answer.) [252]

Q. Where did you get this native paper you speak of?

A. I was born in San Francisco. I got it from San Francisco.

Q. Did you go to China on that paper? A. Yes.

Q. Where did you go from?

A. I don't want to say anything.

Q. When did you return from China?

A. I don't remember.

Q. Where did you land on your return?

A. I was born in this country and you have no right to bother me. I go anywhere I please.

Q. Where did you land upon your return from China? A. San Francisco.

Q. What steamer did you come on?

A. I don't remember.

Q. When did you land at San Francisco?

A. I don't remember.

Q. Under what name did you land?

A. Yee Chong.

Q. Were you examined by immigration inspectors when you landed? A. I don't like to talk.

Q. Did you show your native paper to anyone when you landed?

A. No. No inspectors bother me while I travel around. You are the only one who come to bother me.

Q. Did any inspector ever see your native paper?

A. (Indignantly.) I don't want you to ask me such a question. I don't remember at all.

Q. When were you married to Wong Shee in China? A. I don't want to tell you.

Q. How old were you when you married her?

A. (No answer.)

Q. Where is Wong Shee, your wife, now?

A. In China. [253]

Q. Was she ever in the United States?

A. You don't need to ask me any more questions. I will not answer you.

Q. Have you any papers to produce showing your right to be and remain in the United States?

A. No.

(Tracing of signature.)

(Chinese Characters.)

July 15, 1914, 9:30 A. M.

Q. Do you desire to answer my questions this morning?

A. I told you all about myself yesterday.

Q. Well, tell me again. When did you first go to China? A. I have no more to say.

Q. When did you return from China?

A. I don't remember.

Q. How many years ago?

A. I don't remember.

Q. Where did you land upon your return?

A. San Francisco.

Q. What is your occupation? A. Laundryman.

Q. Where have you been working?

A. I don't feel like talking to you.

Q. You claim you were born in the United States, and it is my duty to investigate your status, but I cannot do this unless you answer my questions. If you were born here it cannot hurt your case to answer all questions freely. [254]

A. I don't want you to talk to me; don't bother me any more, and refund me my money. I want to go to San Francisco on the next train.

Q. You are informed that a complaint will be sworn to against you charging you with *be unlawful* in the United States. A. It is up to me.

Q. Do you still claim you were born in San Francisco? A. Yes, sir.

Q. And you have no papers showing that fact?

A. I had a paper, but have no paper to present to you now, but I have a paper kept by my clansman.

Q. Now, if you were born in the United States why don't you answer my questions. If you were on the square you would not hesitate.

A. Because I don't want you to speak to me. I refuse to say anything more.

Q. Have you understood the interpreter during this examination? A. Yes.

(Tracing of signature.)

(Chinese Characters.)

[Endorsed]: No. 911—Crim. United States vs. Yee Chung. U. S. Exhibit No. 2. Filed May 21, 1915. Wm. M. Van Dyke, Clerk. T. F. Green, Deputy. [255]



YEE CHUNG, the Affiant, whose photograph is hereto attached, makes affidavit as follows, viz.: He is by birth a citizen of the United States, having been born in the City of San Francisco, California, at 728 Sacramento Street, on K. S. 6, 1st month and 8th day. His father was YEE GIM SING and his mother WONG SEE, they being natives of China and residing in San Francisco.

YEE CHUNG is a resident of Carnegie, Alle-

gheny County and State of Pennsylvania, his place of residence being at No. 111 Main Avenue, Carnegie.

Accompanying this Affidavit YEE CHUNG submits the copy of certain legal proceedings, the original of which is in his possession, taken in the City of Burlington, Vermont, on the 31st day of December, 1897, before George E. Johnson, a United States Commissioner for the District of Vermont, who, after a full hearing, in which it was charged against Yee Chung that being a Chinese person he was unlawfully within the territory of the United States, decided that Yee Chung, having established the fact that he was a native-born citizen of the United States, was therefore legally entitled to all the privileges of American citizenship, whereupon his discharge was at once ordered, and he was so discharged, and furnished with a copy of the records in the case.

Signed: YEE CHUNG.

Personally appeared before me a Notary Public in and for the County of Allegheny and State of Pennsylvania, the above-described YEE CHUNG, a resident of Carnegie, Pa., who being duly sworn according to law deposes and says that the above statement of facts is true in every particular.

JOHN A. SOSSONG,

Notary Public.

My Commission expires Jan. 19, 1907. [256]

We the undersigned citizens of Allegheny County, Pa., other than Chinese, are acquainted with the above-described Affiant, YEE CHUNG, and believe

his statement as herein set forth to be true.

E. R. DONEHOO,

Presbyterian Minister.

HERBERT F. JOHNS,

Banker.

Seattle, Wash.

Identified on departure, this Feb. 17, 1907.

J. V. STEWART,

Chinese Inspector. [257]

State of Pennsylvania,

City of Pittsburg,

County of Allegheny,—ss.

In Re *od* YEE CHUNG.

LIM AH HEAUM, a resident of Allegheny County and State of Pennsylvania, his place of business being at 207 Grant Street, Pittsburg, Pa., being duly sworn, upon oath deposes and says: That the photograph on the preceding page of this paper is the photograph of YEE CHUNG, who is a native-born citizen of the United States. That YEE CHUNG is a son of YEE GIM SING & WONG SEE, who at the time of the birth of the said YEE CHUNG, K. S. 6, 1st month and 8th day, were residing in the City of San Francisco, Calafornia, at 728 Sacramento Street. That he, the said YEE CHUNG, has made his home continuously within the United States, with the exception of a brief visit to China. That he now contemplates a second visit to China, intending to return to the United States, the place of his nativity.

Signed: LIM AH HEAUM.

Sworn and subscribed to before me this 19th day of January, A. D. 1907.

[Seal]

JOHN A. SOSSONG,
Notary Public.

My commission expires Jan. 19, 1907. [258]
United States of America,
District of Vermont.

BE IT REMEMBERED: That at Burlington in said District, on the 31st day of December, A. D. 1897, YEE CHUNG, a Chinese person, that is to say, a person of Chinese descent, late of Canton, China, was brought before Geo. E. Johnson, a United States Commissioner within and for the District of Vermont, on the complaint in writing, on his oath of office, of John H. Senter, United States Attorney, in and for the said District, duly filed with me as such Commissioner.

AND THEREUPON, upon said complaint, so filed with me, and because of the same, I, as such United States Commissioner, issued a warrant for the apprehension of the said YEE CHUNG, commanding him to be brought before me, as such Commissioner, forthwith for examination, as is provided in such cases by the Statutes of the United States; which said complaint and warrant of arrest, and the officer's return thereon are in the words and figures following:

United States of America,
District of Vermont,—ss.

To Geo. E. Johnson, Esq., United States Commissioner, within and for the District of Vermont, comes John H. Senter, United States Attorney in and for

the District of Vermont, and on his oath of office complaint makes that YEE CHUNG late of Canton, China, heretofore, to wit: On the 28th day of December in the year of our Lord one thousand eight hundred and ninety-seven, at Richford, in the County of Franklin, in the State and District of Vermont aforesaid, and within the jurisdiction of this Court, was then and there a Chinese person, that is to say, a person of Chinese descent, unlawfully and [259] without right within the United States, that is to say, at Richford aforesaid, contrary to the form, force and effect of the Statute of the United States in such case made and provided and against the peace and dignity of the United States.

JOHN H. SENTER,

United States Attorney for the District of Vermont.

The foregoing complaint was exhibited to me this 31st day of December, A. D. 1897, and process then issued.

GEO. E. JOHNSON,

United States Commissioner for the District of Vermont.

United States of America,

District of Vermont,—ss.

The President of the United States to the United States Marshal, within and for the District of Vermont, or Either of His Deputies, Greeting:

BY THE AUTHORITY OF THE UNITED STATES OF AMERICA, you are hereby commanded to arrest the body of the said YEE CHUNG, if to be found within your *precint*, and have him forthwith before the subscribing authority at the

office of Geo. E. Johnson, in Burlington, in the District of Vermont, aforesaid, that he may answer the foregoing complaint and be further dealt with according to law.

GIVEN under my hand at Burlington, in the County of Chittenden, in the State and District of Vermont, this 31st day of December, A. D. 1897.

(L. S.)

GEO. E. JOHNSON,

United States Commissioner for the District of Vermont. [260]

United States of America,
District of Vermont,—ss.

At Richford, in said District, on this 1st day of January, A. D. 1898, by virtue of the within warrant, I arrested the body of the within named YEE CHUNG and read the same in his hearing, and now have him here in court as within commanded.

Attest:

EMERY S. HARRIS,

U. S. Marshal for the District of Vermont.

By James A. Kelley,

Deputy.

FEES:

Serving warrant	2.00
Transport prisoner	
62 miles	6.20
Discharge defend50
1 day's attendance	2.00

10.70

And afterwards, and on the 3d day of January, A. D. 1898, the warrant of arrest was returned served and respondent in Court.

And afterwards, and on the same 3d day of January said cause was continued until future date to be thereafter fixed.

And afterwards, and on the 8th day of January, A. D. 1898, said cause was further continued until the 19th day of January, A. D. 1898.

And afterwards, and on the 19th day of January, A. D. 1898, said cause came on for final hearing, the District Attorney appearing for the Government and D. J. Foster as counsel for respondent and after full hearing the respondent was DISCHARGED [261] from custody.

A true record.

(L. S.) Attest: GEO. E. JOHNSON,
United States Commissioner, for the District of
Vermont.

United States of America,
District of Vermont,—ss.

I, Geo. E. Johnson, United States Commissioner, within and for the District of Vermont, do hereby certify that the above and foregoing is a true copy of the original complaint, warrant of arrest, judgment, order and decree, in the case of the United States vs. Yee Chung, for violation of the Chinese Exclusion Acts, (so called) as the same remain of record and on file in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office, at the City of Burlington, in said District of Vermont, this 31st day of October, A. D. 1906, and of the Independence

of the United States the one hundred and thirty-first.

[Seal]

GEO. E. JOHNSON,

United States Commissioner for the District of Vermont. [262]

[Endorsed]: United States of America, District of Vermont. United States vs. Yee Chung. Transcript of record. Offered as Defts. Exhibit "A." U. S. Dist. Court, So. Dist. Cal., So. Div. 911-Crim. U. S. vs. Yee Chung. Defts, Exh. "A." Filed Apr. 2, 1915. Wm. M. Van Dyke, Clerk. By Leslie S. Colyer, Deputy. Rev. E. R. Donehoo, D. D. Library Flats, 109 Grandview Ave., Pittsburg, Pa. Bell phone, Hill 638-L. [263]

**Defendant's Exhibit No. 3—Certified Copy of
Record of Immigration Commissioner in Re
Yee Chung.**

Form 551. Inclosure 24890. From Department of Commerce and Labor Immigration Service, Port of Seattle, Wash. 11-1495.

Department of Commerce and Labor.

Immigration Service.

Office of the Commissioner.

Seattle, Wash.

United States of America,
State of Washington,
County of King,—ss.

I, HENRY M. WHITE, do hereby certify and declare that I am the United States Commissioner of Immigration in and for the State of Washington, and that as such officer I am the

lawful custodian of all papers, correspondence and records relating to the departure from and return to the United States of Chinese persons traveling via any port in said district; that the annexed paper (Dep. Serial No. 1795) in the case of YEE CHUNG, bearing an endorsement on the face thereof showing that said Chinaman departed from the United States on February 17, 1907, constitutes the complete record in said case taken from the files of my office and is the official record of the facts therein recited. I certify further that there is nothing in the files of my office evidencing the return of Yee Chung to the United States since his departure in 1907, as stated.

WITNESS my hand and official seal, this 19th day of August, 1914.

[Seal]

HENRY M. WHITE,
Commissioner. [264]



YEE CHUNG, the Affiant, whose photograph is hereto attached, makes Affidavit as follows, viz:

He is by birth a citizen of the United States, having been born in the City of San Francisco, California, at 728 Sacramento Street on California, K. S. 6, 1st month and 8th day. His father was YEE GIM SING and his mother, WONG SEE, they being natives of China and residing in San Francisco.

YEE CHUNG is a resident of Carnegie, Al-

leggheny County and State of Pennsylvania, his place of residence being at No. 111 Main Avenue, Carnegie.

Accompanying this affidavit YEE CHUNG submits a copy of certain legal proceedings, the original of which is in his possession, taken in the City of Burlington and State of Vermont, on the 31st day of December, 1897, before George E. Johnson, a United States Commissioner for the District of Vermont, who, after a full hearing, in which it was charged against YEE CHUNG that being a Chinese person he was unlawfully within the territory of the United States, decided that Yee Chung having established the fact that he was a native-born citizen of the United States, was therefore legally entitled to all the privileges of an American citizen, whereupon his discharge was at once ordered, and he was so discharged, and furnished with a copy of the records in his case.

Signed: YEE CHUNG. [265]

Personally appeared before me a Notary Public in and for the County of Allegheny and State of Pennsylvania, the above described Yee Chung, a resident of Carnegie, Pa., who being duly sworn according to law, deposes and says that the above statement of facts is true in every particular.

[Seal]

JOHN A. SOSSONG,

Notary Public.

My Commission expires Jan. 19, 1907.

We the undersigned citizens of Allegheny County, Pa., other than Chinese, are acquainted with the

above-described Affiant, YEE CHUNG, and believe his statement as herein set forth to be true.

E. R. DONEHOO,

Presbyterian Minister.

HERBERT F. JOHNS,

Banker.

Seattle, Wash.

Identified on departure this Feb. 17, 1907.

J. V. STEWART,

U. S. Chinese Inspector. [266]

State of Pennsylvania,

County of Allegheny,

City of Pittsburg,—ss.

In Re of YEE CHUNG.

LIM AH HEAUM, a resident of Allegheny County and State of Pennsylvania, his place of business being at 207 Grant Street Pittsburg, Pa., being duly sworn, upon oath deposes and says: That the photograph on the preceding page of this paper is the photograph of YEE CHUNG, a native-born citizen of the United States. That YEE CHUNG is a son of YEE GIM SING & WONG SEE, who at the time of the birth of YEE CHUNG, K. S. 6, 1st month, 8th day, were residing in the City of San Francisco, California, at 728 Sacramento Street. That he, the said YEE CHUNG, has made his home continuously within the United States, with the exception of a brief visit to China. That he now contemplates a second visit to China, intending to return to the United States, the place of his nativity.

Signed: LIM AH HEAUM,

Sworn and subscribed to before me this 19th day of January, A. D. 1907.

[Seal]

JOHN A. SOSSONG,
Notary Public.

My Commission expires Jan. 19, 1907. [267]

United States of America,
District of Vermont.

BE IT REMEMBERED: That at Burlington in said District, on the 31st day of December, A. D. 1897, YEE CHUNG, a Chinese person, that is to say a person of Chinese descent, late of Canton, China, was brought before Geo. E. Johnson, a United States Commissioner within and for the District of Vermont, on the complaint in writing, on his oath in office, of John H. Senter, United States Attorney, in and for said District, duly filed with me as such Commissioner.

AND THEREUPON, upon said complaint, so filed with me, and because of the same, I, as such United States Commissioner, issued a warrant for the apprehension of the said Yee CHUNG, commanding him to be brought before me, as such Commissioner, forthwith for examination, as is provided in such cases by the statutes of the United States, which said complaint and warrant of arrest, and the officers return thereon are in the words and figures following:

United States of America,
District of Vermont,—ss.

To Geo. E. Johnson, Esq., United States Commissioner, within and for the District of Vermont, comes John H. Senter, United States Attorney in and for

the District of Vermont, and on his oath of office complaint makes that YEE CHUNG late of Canton, China, heretofore, to wit: on the 28th day of December in the year of our Lord one thousand eight hundred and ninety-seven, at Richford, in the County of Franklin, in the State and District of Vermont aforesaid, and within the jurisdiction of this Court, was then and there a Chinese person, that is to say a person of Chinese descent, unlawfully and without right within [268] the United States, that is to say at Richford aforesaid, contrary to the form, force and effect of the Statute of the United States in such case made and provided and against the peace and dignity of the United States.

JOHN H. SENTER,

United States Attorney for the District of Vermont.

The foregoing complaint was exhibited to me this 31st day of December, A. D. 1897, and process then issued.

GEO. E. JOHNSON,

United States Commissioner for the District of Vermont.

United States of America,

District of Vermont,—ss.

The President of the United States to the United States Marshal, Within and for the District of Vermont, or Either of His Deputies, Greeting:

BY THE AUTHORITY OF THE UNITED STATES OF AMERICA, You are hereby commanded to arrest the body of the said YEE CHUNG, if to be found within your *precint*, and have him forthwith before the subscribing authority at the

office of Geo. E. Johnson, in Burlington, in the District of Vermont, aforesaid, that he may answer the foregoing complaint and be further dealt with according to law.

Made under my hand at Burlington in the County
of Chittenden, in the State and District of Vermont,
this 31st day of December, A. D. 1897.

(L. S.) GEO. E. JOHNSON,
United States Commissioner for the District of Ver-
mont. [269]

United States of America,
District of Vermont,—ss.

At Richford, in said District, on this 1st day of January, A. D. 1898, by virtue of the within warrant, I arrested the body of the within-named YEE CHUNG and read the same in his hearing, and now have him in Court as within commanded.

Attest: EMERY S. HARRIS,
U. S. Marshal for the District of Vermont,
By James A. Kelley,
Deputy.

FEEES:

Serving warrant	\$2.00
Transport prisoner 62 miles.....	6.20
Discharge Defend.50
1 Days attendance.....	2.00
	<hr/>
	\$10.70

And afterwards, and on the 3d day of January, A. D. 1898, the warrant of arrest was returned served and respondent in Court.

And afterwards, and on the same 3d day of Janu-

ary, said cause was continued until future date to be thereafter fixed.

And afterwards, and on the 8th day of January, A. D. 1898, said cause was continued until the 19th day of January, A. D. 1898.

And afterwards, and on the 19th day of January, A. D. 1898, said cause came on for final hearing, the District Attorney [270] appearing for the Government and D. J. Foster as counsel for the respondent and after full hearing the respondent was DISCHARGED from custody.

A true record.

Attest: GEO. E. JOHNSON,
United States Commissioner, for the District of
Vermont.

United States of America,
District of Vermont,—ss.

I, George E. Johnson, United States Commissioner, within and for the District of Vermont, do hereby certify that the above and foregoing is a true copy of the original complaint, warrant of arrest, judgment, order and decree, in the case of the United States vs. YEE CHUNG, for violation of the Chinese Exclusion Acts (so called), as the same remain of record and on file in my office.

IN WITNESS THEREOF, I have hereunto set my hand and affixed my seal of office, at the City of Burlington, in said District of Vermont, this 31st day of October, A. D. 1906, and of the Independence

of the United States the one hundred and thirty-first.

(L. S.)

GEO. E. JOHNSON,

United States Commissioner for the District of
Vermont. [271]

[Endorsed]: Yee Chung of Carnegie, Pa. Rev. E. R. Donehoo, D. D., Library Flats, 109 Grandview Ave., Pittsburg, Pa. Bell Phone Hill 638-L. Return Serial No. ——. Dep. Serial No. 1795. Name, Yee Chung. Class, N. B. Residence, Carnegie, Pa. Papers Filed Feb. 17, 1907. Identified and Departed per S. S. "Dakota" Feby. 17, 1907.

911-Crim. U. S. Dist. Court, So. Dist. Cal., So. Div. U. S. vs. Yee Chung. Defts. Exh. "B." Filed Apr. 2, 1915. Wm. M. Van Dyke, Clerk. By Leslie S. Colyer, Deputy. Defts. Ex. "B." Filed Sept. 25, 1914. Chas. N. Williams, U. S. Commissioner. [272]

Memo. for the Commissioner.

12720/8-17.

In Re YEE WAH, Alleged Son of a Native.

July 1st, 1913.

* * * The alleged father claims to have returned to the United States from China by Vancouver, B. C., ex SS. "Empress of China," K. S. 23-11 (November or December, 1897), and to have immediately proceeded to the United States via Montreal and Richford, Vermont. He presents court record of discharge No. 121, issued in his name, by the District Court of Vermont. The alleged father, it will be noted, was landed at this port No. 47 Manchuria, Nov. 12th, 1909, by virtue of his previous landing by Commissioner Johnson January 19th, 1897. Manifestly the examining inspector is not satisfied that the essential trip has been absolutely verified, but in my opinion the prior landing record No. 47 contains sufficient evidence to show that the alleged father in the present case is the identical person landed by the Court in 1897. Accordingly, the essential trip is verified and I recommend admission.

A. W. LONG,

Inspector, Law Division. [273]

Pittsburg, Pa.

* * * The alleged father, Yee Chung of his coming and now detained alleged son, Yee Wah, stated his testimony in a candid and frank way, corroborating all of his alleged son's statements in a most minute manner, so that I feel impressed that the truth was told.

The witness Yee Wing also made a statement which corresponds in its entirety to all testimony given by Yee Wah.

On account that all testimonies were given in such a frank way and corroboratively implying the truth, I think I feel justified to ask a favorable consideration concerning the admission of Yee Wah.

(Signed) B. B. MARHEINEKE,
Investigating Interpreter. [274]

FLYING KITE FILM

911 Co. Va.
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Apr. 16 Thurs. 4 — 11 11 — in

Department of Student Affairs

[illegible]

to the point where the water is not so deep.

1000 of 1844-1845

Island of the port of San Francisco, Cal.

This 30th day of Dec 1973

2. E. H. H. H.

University of Illinois at Chicago

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ORIGINAL,

RECEIVED

OF THE DEPARTMENT OF COMMERCE AND LABOR, ADOPTED MARCH 19, 1909.

and the house named and described on the reverse side.

to the health of the Nation, as of the streets indicated, whereby

and that the said land is bounded with the said

David Johnson's freedom is strong, no bad habits, no immoral surroundings;

...advised about the possibility of being interviewed with his name written down and to be prepared to be interviewed with his name written down.

and of the United States, immigration efforts requiring the

Portrait photograph

13945

TO BE KEPT IN THE
RECORDS OF THE
CITY OF NEW YORK

ISSUED IN CONFORMITY WITH A REGULATION OF THE DEPARTMENT OF COMMERCE AND LABOR, ADOPTED MARCH 19, 1909.

ORIGINAL

[illegible]

**Defendant's Exhibit "E"—Copy of Report of
Chinese Inspector in Re Yee Chung.**

December 13th, 1909.

Inspector-in-Charge, C. D., I. S.,
San Francisco, California.

In Re Yee Chung, Native, C. R., 47 Manchuria,
11/12/09, I have to report as follows:

This applicant presents a transcript of a record of Commissioner Johnson, District of Vermont, without a photograph attached, showing that a Chinaman of the same name was discharged by said Commissioner January 19th, 1897. The ground of the discharge is not shown, but in view of the fact that it appears that the respondent in that case entered the United States at Richford, Vermont, and was subsequently taken to Burlington, where he was discharged by Commissioner Johnson, I am satisfied that he was discharged on the ground of birth in the United States, because had he set up any other claim, such claim would have been investigated at the Port of Richford.

According to the report of the Inspector-in-Charge at Richford, dated November 26th, 1909, there is no testimony in Commissioner Johnson's records of the cases at the time of the discharge of said respondent and the Commissioner's records consist simply of the docket entries, complaint, warrant, etc.

By the telegram of the Inspector-in-Charge at Richford, dated December 19th, 1909, in reply to

telegram of this office of December 7th, 1909, it appears that the transcript of the record presented by this applicant is genuine.

Considering the lapse of time the applicant claims to have been arrested and discharged by Commissioner Johnson, I am reasonably satisfied from his examination that he is the respondent, Yee Chung, discharged by Commissioner Johnson, January 19th, 1897. Although he claims that he distinctly remembers [276] the Commissioner who discharged him and the description he has given of said Commissioner by no means shows him to have been Commissioner Johnson, I think it would be unreasonable to hold the applicant too strictly to this description in view of the 12 years that have elapsed since his alleged discharge.

In view of the foregoing, I recommend landing. All papers herewith.

Respectfully,
CHAS. D. MAYER,
Chinese Inspector.

L.A.J.

To the Commissioner at San Francisco, from office
of the Chinese Inspector at Richford, Vt. Nov.
26th, 1909.

(Letter states that Commissioner Johnson died in Burlington, Vt., in November, 1907), and that records and dockets are in custody of the Clerk of the U. S. Court at Rutland, Vt.)

* * * It is noted that this applicant alleges that he was discharged on Dec. 31st, 1897. During this time and until James L. Martin was appointed

U. S. Attorney in 1898, the dockets of Commissioner Johnson only show the dates of the hearings and that the respondent was discharged, there being no transcript of testimony taken at that time, nor record, simply the docket entries, complaint, warrant, etc. Photograph was not attached to any of the papers at that time and only in very rare instances was a photograph attached to Commissioner Johnson's docket at later dates. * * *

(Signed) ARTHUR L. WEEKS,
Chinese Inspector-in-Charge. [277]

[Endorsed]: 911-Crim. U. S. Dist. Court, So. Dist. Cal., So. Div. U. S. vs. Yee Chung. Defts. Exh. "E." Filed Apr. 2, 1915. Wm. M. Van Dyke, Clerk. By Leslie S. Colyer, Deputy. [278]

Defendant's Exhibit "F"—Correspondence Between U. S. Commissioner and Clerk U. S. District Court of Vermont in Re Records of U. S. Commissioner.

August 13, 1914.

Clerk U. S. District Court,
District of Vermont,
Rutland, Vermont.

SIR: You will please find inclosed herewith what purports to be a certified copy of a record of discharge issued by one George E. Johnston, United States Commissioner, residing at Burlington, Vermont, in the matter of a Chinese person named YEE CHUNG, said discharge being dated January 19, 1898, and the certified copy dated October 31, 1906. There is attached to said certified copy an

affidavit of Yee Chung, to which is attached a photograph, which is a fair likeness of said Yee Chung, who is now under arrest in this District under the name of Yee Chong, and the case is pending before me.

I will thank you to compare the signature and seal of said George E. Johnston, United States Commissioner, aforesaid, with that on file in your office, as I understand that Mr. Johnston is now dead and all his official records as Commissioner are on file in your office.

Also compare photograph attached to affidavit with the photograph attached to Commissioner Johnston's docket, if one is so attached to the docket.

Also ascertain, if possible, under what status said Yee Chung was discharged, whether as merchant, minor son of merchant or native.

Also what bond was furnished for the appearance of said Yee Chung, and who the sureties were.
[279]

Also what witnesses testified on behalf of said Yee Chung.

Also, if possible, secure transcript of testimony which was offered in the case before Commissioner Johnston, and forward same to me for court purposes. Said transcript will be returned to you when it has served its purpose.

Also ascertain the number of copies of the record issued by Commissioner Johnston and to whom.

Any other matter which will throw light on this case will be appreciated.

The immigration authorities in this city have requested their office in Boston to make an investigation in this case, and it is suggested that you hold the papers transmitted herewith until their officers, who will call on you, can make an investigation, and have an opportunity to examine the papers sent you; after which please return to me, with report of your investigations.

Thanking you in advance, I remain,

Respectfully,

(Signed) CHAS. N. WILLIAMS,
United States Commissioner, Southern District of
California. [280]

Office of the Clerk,
District Court of the United States,
District of Vermont.
Frederick S. Platt,
Clerk.

Rutland, August 18, 1914.

Charles N. Williams, Esq.,
U. S. Commissioner,
Los Angeles, California.

My dear Sir: I have your letter of August 13th, inclosing record with papers attached, in cause U. S. vs. Yee Chung.

The copy of record is undoubtedly genuine. The signature and seal attached thereto are the genuine signature and seal of former U. S. Commissioner, George E. Johnson, of the District of Vermont.

A photograph of the respondent is not attached either to the record or docket entries of former U. S. Commissioner Johnson. There is nothing in

either the record, the docket, or upon the papers filed in the case, to show the reason of the discharge of the respondent. There is nothing to show that any bond was furnished for the appearance of the respondent. There is nothing from which I can give you the names of the witnesses, either for the United States or for the respondent.

I do not know of any way to obtain a transcript of the evidence in any case tried before Commissioner Johnson prior to May, 1898.

There is nothing to show how many copies of the
[281]

C. N. W.

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8/18/14

record were issued by Commissioner Johnson, nor to whom such copies were issued.

I do not like to keep such papers as you inclosed to me for the reason that they do not belong in this office, but inasmuch as you state that the immigration authorities from Boston are likely to come here and investigate the matter, I will keep them for a reasonable time.

I do not understand how my statements made in this way can be coonsidered by a court, but inasmuch as you have called for them, I am writing this letter.

I trust that I may soon be directed how to dispose of the papers which you sent me.

Very truly yours,

F. S. PLATT,

Clerk. [282]

Office of the Clerk,
District Court of the United States,
District of Vermont.

Frederick S. Platt,
Clerk.

Rutland, August 21, 1914.

Charles N. Williams, Esq.,
U. S. Commissioner,
Los Angeles, California.

My dear Sir: Mr. Sullivan, from the office of the Chinese Inspector, at Boston, has been to this office and examined into the Yee Chung case, mentioned in your letter to me of August 13th.

I am herewith returning to you the certified copy of the record in the case with the affidavits, photograph, etc., which were attached and which were forwarded to me in your letter of August 13th. Will you kindly acknowledge receipt of the same.

Since I wrote you on August 18th, I have made further examination of the copy of record, which you sent me and of the original record of the case, now in this office.

Beyond any possible question, the original record is a carbon copy of the paper certified to Mr. Johnson as a copy of the record. I have learned that when Mr. Johnson made a record, it was his custom to make it in duplicate. One of the papers he certified as the record and the other, the copy, and forwarded to any party who desired a certified copy of the record. [283]

C. N. W.

2

8/21/14.

It is evident, therefore, that the copy of the record, which you sent me, and which I am herewith returning, is the one that was made at the same time the original record was made.

I am sure of this because each line and page of the inclosed copy of the record exactly corresponds with the original record and where there are any defects in the workmanship, the same defects appear both in the original record and in the inclosed copy.

If you will look at the second page of the record at the line under the signature of Mr. Johnson, "For the District of Vermont" and the broken line below, the original record is an exact counterpart of the inclosed. I am, therefore, convinced that the inclosed copy of record is genuine and is the one that was made by former Commissioner Johnson when the original record was made.

Very truly yours,

F. S. PLATT,

Clerk.

[Endorsed]: 911—Crim. U. S. Dist. Court, So. Dist. Cal. So. Div. U. S. vs. Yee Chung. Defts. Ex. "F." Filed Apr. 2, 1915. Wm. M. Van Dyke, Clerk. By Leslie S. Colyer, Deputy. [284]

ORIGINAL.

*In the United States District Court, in and for the
Southern District of California, Southern Division.*

No. 911.

THE UNITED STATES OF AMERICA,

vs.

YEE CHUNG,

Defendant,

Notice of Appeal.

To the Clerk of the Above-entitled Court and to the
Hon. ALBERT SCHOONOVER, United States
Attorney for the Southern District of California.

You and each of you will please take notice that
Yee Chung, defendant herein, does hereby appeal
to the United States Circuit Court of Appeals for the
Ninth Circuit, from the judgment and order made
and entered herein on the 19th day of January, 1916,
affirming the judgment of the Commissioner, and
ordering the defendant herein deported.

Dated, at Los Angeles, Cal., this 22 day of March,
1916.

ISIDORE B. DOCKWEILER,

JOHN L. McNAB,

Attorneys for Defendant and Appellant. [285]

[Endorsed]: Original. No. 911-Criminal. In
the United States District Court, in and for the
Southern District of California, Southern Division.
The United States of America, vs. Yee Chung, De-
fendant. Notice of Appeal. Service of the Within

Notice of Appeal is hereby admitted this 22 day of March, 1916. Albert Schoonover, U. S. Attorney for Plaintiff. MEG. Isidore B. Dockweiler and John L. McNab, Suite 502, Douglas Bldg. Office, Tel. Main 1320 (Sunset), Home 1320, Los Angeles, Cal., Attorneys for Defendant. Removed to 1035 I. N. Van Nuys Building. Filed Mar. 22, 1916, at —min. past 11 o'clock A. M. Wm. M. Van Dyke, Clerk. Murray C. White, Deputy. [286]

ORIGINAL.

In the United States District Court, in and for the Southern District of California, Southern Division.

No. 911.

THE UNITED STATES OF AMERICA,

vs.

YEE CHUNG,

Defendant.

Petition for Appeal.

Now comes Yee Chung, defendant, and the appellant herein, and says:

That on the 19th day of January, 1916, the above-entitled court made and entered its judgment, affirming the judgment of the Commissioner and ordering the defendant deported, in which said judgment and order in the above-entitled cause certain errors were made to the prejudice of the appellant herein, all of which will more fully appear from the assignment of errors filed herewith.

WHEREFORE, this appellant prays that an ap-

peal may be granted in his behalf to the United States Circuit Court of Appeals for the Ninth Circuit thereof, for the correction of the errors so complained of, and to reverse, annul and set aside the said order and judgment made and entered in the premises on the 19th day of January, 1916; and further, that a transcript of the record, proceedings and papers in the above-entitled cause, as shown by the praecipe, duly authenticated, [287] may be sent and transmitted to the said United States Circuit Court of Appeals for the Ninth Circuit thereof.

Dated at Los Angeles, California, this 20th day of March, 1916.

ISIDORE B. DOCKWEILER,
JOHN L. McNAB,

Attorneys for Defendant and Appellant herein.

[Endorsed]: Original. No. 911—Criminal. In the United States District Court, in and for the Southern District of California, Southern Division. The United States of America vs. Yee Chung, Defendant. Petition for Appeal. Service of the within Petition is hereby admitted this 20th day of March, 1916. Clyde R. Moody, Asst. U. S. Attorney. Isidore B. Dockweiler and John L. McNab, Suite 502, Douglas Bldg. Office, Tel. Main 1320 (Sunset), Home 1320, Los Angeles, Cal., Attorneys for Defendant. Removed to 1035 I. N. Van Nuys Bldg. Filed Mar. 20, 1916, at 55 min. past 1 o'clock P. M. Wm. M. Van Dyke, Clerk. T. F. Green, Deputy. [288]

ORIGINAL.

*In the United States District Court, in and for the
Southern District of California, Southern Division.*

No. 911.

UNITED STATES OF AMERICA,

vs.

YEE CHUNG,

Defendant.

Assignment of Errors.

(On Appeal from District Court.)

Comes now, Yee Chung, the appellant herein, by his attorneys John L. McNab, Esq., and Isidore B. Dockweiler, Esq., in connection with his petition for an appeal, assigns the following errors, which he avers occurred upon the trial or hearing of the above-entitled cause, and upon which he will rely, upon appeal to the United States Circuit Court of Appeals for the Ninth Circuit, to wit:

1.

The District Court erred in holding and deciding that where a person claims to be a native-born citizen of the United States, notwithstanding he is of Chinese descent, that the burden of proof is upon him to establish the fact that he is such citizen, and lawfully entitled to remain within the United States.

2.

The District Court erred in not holding and deciding that where a person claims to be a native-born citizen of the United [289] States, notwithstanding he is of Chinese descent, that the burden of

proof was upon the Government to affirmatively establish that such person is not a person born within the United States and is not entitled to remain within the United States.

3.

The District Court erred in holding and deciding that the proceedings, record and judgment of the United States Commissioner for the District of Vermont, before whom defendant had a hearing in January, 1898, and was discharged by said Commissioner as a citizen of the United States, was not *res adjudicata*, and that the District Court was not bound thereby.

4.

The District Court erred in holding and deciding and making a finding of fact that Yee Chung, the defendant, was not the same and identical person referred to in the report of the United States Commissioner for the District of Vermont, wherein it was declared that Yee Chung was a citizen of the United States, and lawfully entitled to remain within the United States, and accordingly discharged.

5.

The District Court erred in not holding and deciding and making a finding of fact that Yee Chung, the defendant, was the same and identical person referred to in the report of the United States Commissioner for the District of Vermont, wherein it was declared that Yee Chung was a citizen of the United States, and lawfully entitled to remain within the United States, and accordingly discharged.

6.

The District Court erred in weighing and considering evidence upon the question of fact already determined by the [290] report of Inspector Mayer, of the Immigration Department (Defendant's Exhibit "E"), wherein, after investigation, it was declared that defendant, Yee Chung, was the same and identical person discharged as a citizen of the United States by the United States Commissioner for the District of Vermont in 1898; and which report of said Inspector recommended landing of defendant in 1909.

7.

The District Court erred in weighing and considering evidence, and making a finding of fact upon the question of the identity of Yee Chung, that defendant was not the same and identical person who was born in San Francisco, California, February 17, 1880, and therefore, a native-born citizen of the United States.

8.

The District Court erred in weighing and considering evidence, and making a finding of fact that defendant, Yee Chung, was not the same and identical person who was lawfully landed at Vancouver, British Columbia, in 1897; and later, after hearing, discharged by the United States Commissioner for the District of Vermont as a lawful citizen of the United States.

9.

The District Court erred in the rejection of testimony of the witness Yee Ying Dock with respect

to receiving letters written by defendant's father, relative to the birth of defendant, Yee Chung, in San Francisco, California, offered by defendant upon the trial of the cause in the following instance:

"Q. (By Mr. McNAB.) After you arrived in China did you receive a letter that was written by Yee Kim Sing to your [291] father in regard to his family affairs in San Francisco?"

"Mr. SCHOONOVER.—Objected to as incompetent, irrelevant and immaterial. It does not appear that it would tend to establish or disprove any issue in the case.

"Mr. DOCKWEILER.—It is preliminary.

"The COURT.—Yes, it is hearsay. The objection is sustained. It is incompetent.

"Mr. McNAB.—And without intending in the slightest degree to interfere with your Honor's ruling, but in order to get the entire question in the record, I will amplify the question in this respect:

"Q. After you had gone to China did you see letters written by Yee Kim Sing to your father announcing the birth of a boy and the name that they had given him?

"Mr. SCHOONOVER.—Objected to as incompetent, irrelevant and immaterial, and calling for hearsay testimony.

"The COURT.—The objection is sustained.

"Mr. McNAB.—And we except.

"Q. Now, did you, while in China, and shortly after you arrived there, see any correspondence

between Yee Kim Sing and your father at all?

“Mr. SCHOONOVER.—Objected to on the same grounds as the *the* objection made to the former question.

“The COURT.—The objection is sustained.”

(Stipulation in record that exceptions may be deemed excepted to.)

10.

The District Court erred in admitting in evidence, over the objection of defendant, and in not sustaining defendant's [292] objection to the offer in evidence, by the Government, of the record of the Vancouver Office of the United States Immigration Service in the following instance:

“Mr. MOODY.—This record which I offer here is supposed to be and is certified to be a record of the Vancouver office of the United States Immigration Service, and the point upon which it was refused before is that it is *ex parte*, and an affidavit and a statement of a man who says his name is Yee Kim Sing, and in his affidavit says he was a merchant at 40 Harrison Street, Boston, and it gives the physical description of the man. * * * The materiality of it lies in this,—that this man claims his father was a man named Yee Kim Sing, who was a merchant at No. 40 Harrison Street, Boston; and he further says that his picture looks like his father; and the materiality of it lies in showing the actions of this man Yee Kim Sing relative to the actions that Yee Chung ascribed to Yee Kim Sing in his statements as

to what his father did at the times he said his father did those things. * * *

“Mr. McNAB.—He testifies that it is not his father.

“Mr. MOODY.—No; he said at first it was not his father, and then upon reconsidering it he said it looked like his father.”

“Mr. McNAB.—Well, we will just see what the record says.

“Mr. MOODY.—Page 78.

“Mr. McNAB.—We object to the admissibility of this, if your Honor please, on the ground that it is incompetent, irrelevant and immaterial, and that it does not intend to impeach the witness; that it is *res inter alios acta*; that it is merely a record of proceedings taken with regard to a person not confronted upon his trial, which are binding upon [293] this defendant, a record of an action taken by a person not related to the trial, without any privilege on the part of this defendant of cross-examining him or showing anything in relation to it whatever. He was shown a photograph at the trial, and said, ‘Is this a photograph of your father as he appeared when you went down to Boston with him from Burlington, Vermont (exhibiting picture). Yes, that looks like my father.’ * * * He does not say now that it is a picture of his father; he says it looks like his father. His first statement was that it was not. * * * ‘Q. You say this is a different

picture then, than was shown to you in the hearing before Mr. Williams, the Commissioner?

A. It don't appear to me to be the same (reading).'

"If it were attempted to prove by a record here, if your Honor please,, that a person by the name of Yee Kim Shing or Yee Kim Sing had admitted at any place that he departed from this country at a particular time, the mere attaching of a certificate to it would not make it admissible in evidence. At most it is a declaration or statement made by a person who is not a party to this record, and the mere addition of a certificate stating that it is found among the official records of a certain department does not make it evidence in a court of justice. That sort of thing is very frequently used before a United States Commissioner and on hearings before inspectors, but we are dealing with a question of evidence. It is an action between parties not parties to this record, which is not binding upon this defendant, and regarding matters over which we have no control by cross-examination.

"The COURT.—You do not ask to have it admitted for the purpose of showing any fact that took place at that time or [294] any fact that it is proper for the Government to record; you are seeking to have it introduced for the purpose of showing by the hearsay declaration of a third party that a certain individual did something at that time. Now, this

will be admissible as evidence that the man whose picture is shown here went out at that time and place. I do not see anything to show that that took place, as a matter of fact. He went out, it is merely found, in Vancouver.

* * *

“Mr. MOODY.—We will offer it, then, for the purpose of showing that a man of the facial characteristics of the one whose picture is shown on there left there at that time.

“The COURT.—It will be admitted for that purpose. That the individual whose picture is shown on that document departed at that time, and for that purpose only.

“Mr. McNAB.—In view of the fact that that also was made before we had a chance to object, I would like to place before your Honor’s ruling the objection. May we do that?

“The COURT.—Yes.

“Mr. McNAB.—We object to it on the ground that such proof would be incompetent, irrelevant and immaterial and not in any way binding upon this defendant, and not tending to prove any issue involved in this hearing.

“The COURT.—The objection is overruled.

“Mr. McNAB.—Exception. That is just the photograph, as I understand it.

“The COURT.—Oh, no; the whole thing. But it is admitted only for the purpose of showing that the individual whose photograph is pasted on one of these sheets of paper departed

as stated in the record. It is competent for that purpose, in my judgment.” [295]

11.

The District Court erred in admitting in evidence, over the objection of defendant and in not sustaining defendant’s objection to the offer to show by the witness Jolliffe the contents of certain Canadian Government manifests, made long prior to the time of his employment, in the following instance:

“Q. What is your occupation?

“A. Dominion Immigration Agent and controller of Chinese Immigration.

“Q. Of British Columbia?

“A. For Vancouver, British Columbia.

“Q. How long have you occupied that position? A. For five months.

“Q. In your present position I will ask you if you are custodian of the manifests showing the landing of passengers at the port of Vancouver, British Columbia, during the years 1907 and 1908 or portions of those years?

“A. I am.

“Q. Have you such manifest with you?

“A. Did you say 1907?

“Q. 1897, I mean, and 1898.

“A. Yes. And I have those papers with me. * * *

“Q. What Chinese persons were landed from that boat October 20, 1897, as shown by the manifest?

“A. Well, there were a number of them.

* * *

“Q. What is the description as shown by the manifest of the two Yee Chungs.

“Mr. DOCKWEILER.—I don’t know, your Honor. If there is any record that they desire to introduce, after identification of the record, the records could be introduced. The record speaks for itself. I don’t know that it is proper for the witness to testify to what the record contains. [296]

“The COURT.—Well, it is a record of another government over which we have no control and no right to assume or attempt to control.

* * *

“Q. (By Mr. McNAB.) Then as I understand it, the extent of your testimony is that these are records which are found in your office, and you do not know anything about how they were prepared except your knowledge of how you now prepare these?

“A. I only know that those are the official Canadian records of the arrival of Chinese between those dates.”

12.

The District Court erred in weighing and considering the evidence of witness Jolliffe in finding that defendant, Yee Chung, was not the same and identical person who was lawfully landed at Vancouver, British Columbia, in 1897; and in not holding that defendant was lawfully landed at Vancouver, British Columbia, in 1897.

13.

The District Court erred in excluding offer of

testimony on behalf of defendant to prove discrepancies and the incorrectness of the Canadian Government manifests, relating to Chinese, by witness Edsell, in the following instance:

“Q. (By Mr. McNAB.) At any of those stations, Mr. Edsell, did you have occasion to interest yourself and familiarize yourself with the manifests kept and maintained by the Canadian Government on incoming Chinese at the port of Vancouver? A. Yes. * * *

“Q. Did you find any mistakes in the records?

“Mr. SCHOONOVTR.—I object to that as immaterial. [297]

“The COURT.—Yes. This is going back the other way. The objection is sustained.

(Stipulation in record that objections are deemed excepted to.)

“Mr. McNAB.—Q. Did you ever have any occasion to inspect the manifests of incoming Chinese? A. Yes.

“Q. Over how long a period of time?

“A. For no particular length of time, but for specific instances of arrivals.

“Q. Find any mistakes in them?

“Mr. SCHOONOVER.—I object to that as immaterial, irrelevant and incompetent, and calling for a conclusion of the witness.

“The COURT.—Yes; that would open up a wide range of inquiry to find out whether these mistakes were mistakes in fact, if you wanted to pursue it down to any degree of definiteness. * * *

“Mr. McNAB.—Let me ask this question: I presume in your experience there you had cases where a Chinese would claim to have come in on a certain steamer, and his name was not on the manifest; is not that correct?

“A. I believe I have known of such instances.

“Q. Did the Immigration Service consider that as conclusive evidence against them?

“Mr. SCHOONOVER.—I object to that as it would have no bearing on this case, and would not in any way bind this court.

“Mr. McNAB.—That may be quite true. I think it is a close point. My purpose, to be perfectly frank, is to show, if it is permissible under the rules of evidence, that if a name was given by a Chinese as coming in on an incoming [298] steamer, and on a search of the manifest that name was not found there, it was not taken as conclusive evidence that he did not come in on that steamer; in other words, that while in fact if his name was there, it might be taken as conclusive evidence, if all the identifying marks were there, yet the fact that his name was not there was not taken as conclusive evidence against him.

“The COURT.—I would rather suppose, in spite of whatever persuasiveness that fact might have on the Immigration Department that the court would not be justified in leaning upon the Immigration Department for support in determining what conclusion should be arrived at in this case. I realize that it is a very

important question in this case, but at the same time, as I indicated before, I know of no reason why this case should not be tried according to the rules of evidence that are applicable in court.

“Mr. McNAB.—That is the only way I knew how to get at that.”

14.

The District Court erred in affirming the judgment of the Commissioner, and ordering the defendant deported.

15.

The District Court erred in weighing and considering the evidence and in holding that Yee Chung was not the son of Yee Kim Sing, born in San Francisco, California, about 1880, and not a citizen of the United States, and entitled to remain within the United States.

16.

That the judgment of the District Court is not warranted by, nor supported by the facts, or the law in the premises, [299] but is contrary thereto.

17.

That said judgment is against law in this: That it appears by a preponderance of the evidence that defendant, Yee Chung, is a native-born citizen of the United States, that he is the same and identical person who was discharged by the United States Commissioner for the District of Vermont as a citizen of the United States.

WHEREFORE, the appellant prays that the

judgment and order of the United States District Court in and for the Southern District of California, made and entered herein in the office of the Clerk of said court on the 19th day of January, A. D. 1916, affirming the judgment of the Commissioner, and ordering defendant deported, be reversed, and the cause remanded, with instructions to discharge defendant from custody.

Dated, Los Angeles, Cal., this 20th day of March, 1916.

ISIDORE B. DOCKWEILER and
JOHN L. McNAB,

Attorneys for Defendant and Appellant.

[Endorsed]: Original. No. 911-Criminal. In the United States District Court in and for the Southern District of California, Southern Division. The United States of America vs. Yee Chung, Defendant. Assignment of Errors. (On Appeal from District Court.) Service of the within Assg. of Errors is hereby admitted this 20th day of March, 1916. Clyde R. Moody, Asst. U. S. Atty. Isidore B. Dockweiler & John L. McNab, Suite 502, Douglas Bldg. Office Tel., Main 1320 (Sunset), Home 1320, Los Angeles, Cal., Attorneys for Defendant. Removed to 1035 I. N. Van Nuys Bldg. Filed Mar. 20, 1916, at 55 min. past 1 o'clock P. M. Wm. M. Van Dyke, Clerk. T. F. Green, Deputy. [300]

ORIGINAL.

*In the United States District Court, in and for the
Southern District of California, Southern Division.*

No. 911.

THE UNITED STATES OF AMERICA,

vs.

YEE CHUNG,

Defendant.

Order Allowing Petition for Appeal.

On this 20th day of March, A. D. 1916, came Yee Chung, defendant herein by his attorneys, John L. McNab, Esq., and and Isidore B. Dockweiler, Esq., and having previously filed herein, did present to this Court, his petition praying for the allowance of an appeal to the United States Circuit Court of Appeals for the Ninth Circuit, intended to be urged and prosecuted by him, and praying also that a transcript of the record and proceedings and papers upon which the judgment herein was rendered, duly authenticated, may be sent and transmitted to the United States Circuit Court of Appeals for the Ninth Circuit, and that such other and further proceedings may be had in the premises as may seem proper.

ON CONSIDERATION WHEREOF, the Court hereby allows the appeal hereby prayed for, and orders that the said defendant Yee Chung be admitted to bail pending said appeal in the sum of \$2,500.00, conditioned as the law directs;

AND IT IS HEREBY FURTHER ORDERED that upon said defendant giving such bond in the aforesaid amount, execution and remand and all proceedings upon the said judgment appealed from herein be and the same are hereby stayed during the pendency of the [301] appeal taken herein from said judgment, provided said appeal be docketed in the Circuit Court of Appeals in the May term, and that said defendant to not depart from the jurisdiction of this Court, but remain and abide by whatever judgment shall finally be entered herein;

AND IT IS HEREBY FURTHER ORDERED that the bond for costs be and the same is hereby fixed in the sum of \$250.00.

Dated at Los Angeles, California, this 20th day of March, 1916.

BLEDSON,
United States District Judge.

[Endorsed]: Original. No. 911—Criminal. In the United States District Court, in and for the Southern District of California, Southern Division. The United States of America vs. Yee Chung, Defendant. Order Allowing Petition for Appeal. Isidore B. Dockweiler & John L. McNab, Suite 502, Douglas Bldg. Office Tel., Main 1320 (Sunset), Home 1320, Los Angeles, Cal., Attorneys for Defendant. Removed to 1035 I. N. Van Nuys Bldg. Filed Mar. 20, 1916, at 30 min. past 2 o'clock P. M. Wm. M. Van Dyke, Clerk. Murray C. White, Deputy. [302]

Bond for Appearance.

ORIGINAL.

KNOW ALL MEN BY THESE PRESENTS: That we, Yee Chung, as principal, and the Illinois Surety Company, a corporation, as surety, are held and firmly bound unto the United States of America in the full and just sum of Twenty-five Hundred (\$2500.00) Dollars, to be paid to the United States of America, to which payment well and truly to be made we bind our heirs, executors and administrators jointly and severally by these presents.

Sealed with our seals and dated this 21st day of March, in the year of our Lord one thousand nine hundred and sixteen.

WHEREAS, lately at a District Court of the United States for the Southern District of California, Southern Division, in a matter depending in said court between the United States of America and Yee Chung, a judgment was rendered against the said Yee Chung, ordering him deported, and the said Yee Chung having obtained from said Court an order allowing an appeal to reverse the judgment in the aforesaid matter and a citation directed to the United States Attorney for the Southern District of California, citing and admonishing him to be and appear at a United States Circuit Court of Appeals for the Ninth Circuit to be holden at San Francisco, in the State of California.

NOW, THE CONDITION OF THE ABOVE OBLIGATION IS SUCH that if the said Yee Chung shall appear, either in person or by attorney, in the said United States Circuit Court of Appeals for the

Ninth Circuit on such day or days as may be appointed for the hearing of said cause in said court and prosecute his said appeal and shall abide by and obey all orders made by the United States Circuit Court of Appeals for the Ninth Circuit in said cause, and shall surrender himself in execution of the judgment appealed from as said court may direct, if the judgment [303] ordering him deported shall be affirmed; or the said appeal be dismissed; and if he shall appear for trial in the said District Court of the United States for the Southern District of California, Southern Division, on such day or days as may be appointed for the retrial by said District Court, and abide by and obey all orders made by said court, provided the judgment and sentence against him shall be reversed by the United States Circuit Court of Appeals for the Ninth Circuit, then the above obligation to be void; otherwise, to remain in full force, virtue and effect.

YEE CHUNG, [L. S.]

Principal.

ILLINOIS SURETY COMPANY, a Corporation,

By F. IRWIN HERRON, [Seal]

Its Atty. in Fact.

And _____,
Surety.

(Photo of Chinaman.)



State of California,
County of Los Angeles,—ss.

On this 21st day of March, in the year of our Lord one thousand nine hundred and sixteen, before me, J. C. Humphreys, a Notary Public in and for said County of Los Angeles, State of California, residing therein, duly commissioned and sworn, personally appeared Yee Chung, personally known to me to be the person whose name is subscribed to the

within instrument, and acknowledged to me that he executed the same.

In Witness Whereof, I have hereunto set my hand and affixed my official seal in said County, the day and year in this certificate first above written.

(General)

[Seal]

J. C. HUMPHREYS,

Notary Public in and for the County of Los Angeles,
State of California. [304]

State of California,

County of Los Angeles,—ss.

On this 21st day of March, A. D. 1916, before me, J. C. Humphreys, a Notary Public in and for the said County and State, residing therein, duly commissioned and sworn, personally appeared F. Irwin Heron, known to me to be the person whose name is subscribed to the within instrument, as the Attorney-in-Fact of Illinois Surety Company, and acknowledged to me that he subscribed the name of Illinois Surety Company thereto as principal and his own name as Attorney-in-Fact.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

[Seal]

J. C. HUMPHREYS,

Notary Public in and for Said County and State.

I hereby approve the form of the within bond and the sufficiency of the surety thereon.

Dated March 22st, 1916.

BLEDSON,

Judge of the District Court of the United States,
Southern District, Southern Division.

[Endorsed]: Original. No. 911—Criminal. In the United States District Court, in and for the Southern District of California, Southern Division. The United States of America, vs. Yee Chung, Defendant. Appearance Bond on Appeal. Isidore B. Dockweiler & John L. McNab, Suite 502, Douglas Bldg. Office Tel., Main 1320 (Sunset), Home 1320, Los Angeles, Cal. Attorney for Defendants. Removed to 1035 I. N. Van Nuys Bldg. Filed Mar. 22, 1916, at — min. past 11 o'clock A. M. Wm. M. Van Dyke, Clerk. Murray C. White, Deputy. [305]

Bond on Appeal.

KNOW ALL MEN BY THESE PRESENTS, That we, Yee Chung, as principal, and Illinois Surety Company, a corporation, as surety, are held and firmly bound unto the United States of America, in the full and just sum of Two Hundred and Fifty (\$250.00) dollars, to be paid to the said United States of *America*, *certain* attorney, executors, administrators or assigns; to which payment, well and truly to be made, we bind ourselves, our heirs, executors and administrators, jointly and severally, by these presents.

Sealed with our seals and dated this 21st day of March in the year of our Lord One Thousand, Nine Hundred and sixteen.

WHEREAS, lately at a District Court of the United States for the Southern District of California, Southern Division, in a matter depending in said Court, between The United States of America and

Yee Chung, a judgment was rendered against the said Yee Chung, ordering him deported and the said Yee Chung having obtained from said Court an order allowing an appeal to reverse the judgment in the aforesaid matter and a citation directed to the said United States Attorney citing and admonishing him to be and appear at a United States Circuit Court of Appeals for the Ninth Circuit, to be holden at San Francisco, in the State of California.

NOW, THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, That if the said Yee Chung shall prosecute to effect, and answer all damages and costs if he fail to make his plea good, then the above obligation to be void; else to remain in full force and virtue.

YEE CHUNG. [Seal] .

Acknowledged before me the day and year first above written.

ILLINOIS SURETY CO.

[Seal]

By F. IRWIN HERRON,

Its Attorney in Fact. [306]

State of California,

County of Los Angeles,—ss.

On this 21st day of March in the year of our Lord one thousand nine hundred and sixteen, before me, J. C. Humphreys, a Notary Public in and for said County of Los Angeles, State of California, residing therein, duly commissioned and sworn, personally appeared Yee Chung personally known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in said County, the day and year in this certificate first above written.

(General)

[Seal] J. C. HUMPHREYS,
Notary Public in and for the County of Los Angeles,
State of California.

State of California,
County of Los Angeles,—ss.

On this 21st day of March, A. D. 1916, before me, J. C. Humphreys, a Notary Public in and for the said County and State, residing therein, duly commissioned and sworn, personally appeared F. Irwin Herron, known to me to be the person whose name is subscribed to the within Instrument, and the Attorney-in-Fact of Illinois Surety Company, and acknowledged to me that he subscribed the name of Illinois Surety Company thereto as principal and his own name as Attorney-in-Fact.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

[Seal] J. C. HUMPHREYS,
Notary Public in and for said County and State.

[307]

[Endorsed]: No. 911—Criminal. United States District Court for the Southern District of California, Southern Division. The United States of America vs. Yee Chung. Bond on Appeal. Form of Bond and Sufficiency of Sureties Approved. Bledsoe, Judge. Filed Mar. 22, 1916, at — min.

past 11 o'clock A. M. Wm. M. Van Dyke, Clerk.
Murray C. White, Deputy. [308]

ORIGINAL.

*In the United States District Court, in and for the
Southern District of California, Southern Divi-
sion.*

No. 911.

THE UNITED STATES OF AMERICA,

vs.

YEE CHUNG,

Defendant.

Praeipce for Transcript of Record.

You will please prepare the record on appeal to the Circuit Court of Appeals of the United States, Ninth Circuit, said record to contain the following:

1. All testimony heard, taken and transcribed in the above-entitled court in this case, same being filed with you and consisting of stenographer's transcript of testimony.

2. Warrant of the arrest of the defendant on which defendant was ordered deported by United States Commissioner.

3. Commissioner's order of deportation.

4. Notice of appeal from United States Commissioner's order to District Court of the United States.

5. Defendant's Exhibits "A," "B," "C," "D," "E," and "F," all of which are more specifically detailed as to their contents in Exhibit No. 1, attached to this praeipce and made a part thereof, for your further information and convenience.

6. United States Exhibits 1 and 2, all of which are more fully detailed in the attached Exhibit No. 1, for your further information and assistance.

JOHN L. McNAB and

ISIDORE B. DOCKWEILER,

Attorneys for Defendant. [309]

Exhibit No. 1.

Defendant's Exhibit "A," endorsed "Filed April 2, 1915. Wm. M. Van Dyke, Clerk, by Leslie S. Colyer, Deputy," is a transcript of the record and proceeding entitled "*In the United States of America, District of Vermont. United States vs. Yee Chung,*" which said record shows that said Yee Chung was arrested at Richford, Vt., on the 1st day of January, 1898, on a complaint made by Jno. H. Senter, U. S. District Attorney, charging that he was a person of Chinese descent unlawfully in the United States at the said Richford, Vt., contrary to the statutes of the United States. That said Yee Chung was thereafter tried before Geo. E. Johnson, U. S. Commissioner at Burlington, Vt., and was on the 19th day of January, 1898, after full hearing discharged from custody.

Attached to the transcript of said record is a certificate of said Geo. E. Johnson, U. S. Commissioner, wherein he states that said transcript is a full and true copy of the original complaint, warrant of arrest, judgment, order and decree in the case of said U. S. vs. Yee Chung for violation of the Chinese Exclusion Act (so-called) as same remains of record and on file in his office. Said certificate made at the

City of Burlington, Vt., on the 31st day of October, 1906.

There is also an affidavit of Yee Chung, with picture annexed, attached to said transcript of proceedings, with certificates of identification signed by J. V. Stewart, Chinese Inspector at Seattle, Wash., of said Yee Chung on his departure from the U. S. on Feb. 17, 1907.

Memorandum Re Defendant's Exhibit "B."

Defendant's Exhibit "B," endorsed "Filed April 2, 1915, Wm. M. Van Dyke, Clerk, by Leslie S. Colyer, Deputy," and also endorsed "Filed September 25, 1914. Chas. M. Williams, U. S. [310] Commissioner," consists of a certificate dated August 19, 1914, made in the County of King, State of Washington, by Henry M. White, U. S. Commissioner of Immigration, in and for the State of Washington, in and by which said White says that as such officer he is the lawful custodian of all papers, correspondence and records relating to the departure from and return to the United States of Chinese persons traveling via any port in said District; that the attached papers in the case of Yee Chung, bearing endorsements on the face thereof, show that said Chinaman departed from the United States on the 17th day of February, 1907, and that said papers constitute the complete record in said case, taken from the files of his office as the official record of the facts therein cited, and that there is nothing in his files evidencing the return of said Yee Chung to the United States since his departure in 1907.

The papers annexed to said certificate consist of a copy of the transcript of the records in said proceeding of which exhibit "A" is a transcript, also affidavit of Yee Chung, made at the time he presented copy of said papers to J. V. Stewart, Chinese Inspector, identifying him as the person discharged in said Vermont proceeding, on the 17th day of February, 1907, the date of his departure from the United States.

Memorandum Re Defendant's Exhibit "C."

Defendant's Exhibit "C" endorsed "Filed April 2, 1915, Wm. M. Van Dyke, Clerk, by Leslie S. Colyer, Deputy," has been withdrawn, and a certified copy thereof was filed on April 15, 1915, same consisting of a photograph, description and certificate of identification of one Yee Wah, age 17 years, height 4 ft. 11 inches, occupation a student of Pittsburg, Pennsylvania, admitted as a son of Native 12720-8-17 S. S. "Siberia," 6/2/13, same being signed by Samuel W. Backis, Immigration [311] Official in Charge, by "H. B. S.," at the port of San Francisco, Cal., on the 7th day of July. 1913.

Attached to said certificate is a memorandum, reading as follows:

"12720/8-17. In Re Yee Wah, alleged son of a native. July 1, 1913. The alleged father claims to have been returned to the United States from China via Vancouver, B. C., Ex. S. S. "Empress of China," K. S. 23-11 (November or December, 1897) and to have immediately proceeded to the United States via Montreal and Richford, Vt. He presents a court

record of discharge No. 121, issued in his name by the District of Vermont.

The alleged father, it will be noted, was landed at this port No. 47 Manchuria 11/12/1909, by virtue of his previous landing by Commissioner Johnson on January 19, 1897. Manifestly the examining inspector is not satisfied that the essential trip has been absolutely verified, but in my opinion the prior landing, Record No. 47, contains sufficient evidence to show that the alleged father in the present case is the identical person landed by Court in 1897. Accordingly the essential trip is verified and I recommend admission.

(Signed) A. W. LONG,
Inspector Law Division."

Memorandum Re Defendant's Exhibit "D."

Defendant's Exhibit "D," endorsed "Filed April 2, 1915. Wm. M. Van Dyke, Clerk, by Leslie S. Colyer, Deputy," was withdrawn, and a certified copy thereof filed on April 15, 1915, same consisting of a photograph, description and certificate of identification of one Yee Lai, age 16 years, height 4 ft. 11 in., by occupation a student of Homestead, Penna., admitted as son of native No. 13035/3-9, S. S. "China," 11/10/13, signed by H. [312] Edsell, Immigration Official in Charge, by "H. G. S.," at the port of San Francisco, Cal., December 30, 1913.

**Memorandum Re Defendant's Exhibit "E"—Report
of Charles D. Mayer, Inspector, in Re Yee
Chung.**

Defendant's Exhibit "E," endorsed "Filed April 2, 1915, Wm. M. Van Dyke, Clerk, by Leslie S. Colyer, Deputy," consists of the following documents:

"December 13, 1909.

Inspector in Charge, C. D., I. S.,
San Francisco, Cal.

IN RE Yee Chung, Native C. R.,
47 Manchuria, 11/12/1909.

I have to report as follows: This applicant presents a transcript of a record of Commissioner Johnson, District of Vermont, without a photograph attached, showing that a Chinaman of the same name was discharged by said Commissioner Jan. 19, 1897, and the ground of the discharge is not shown, but in view of the fact that it appears that the respondent in that case entered the United States at Richford, Vermont, and was subsequently taken to Burlington where he was discharged by Commissioner Johnson, I am satisfied that he was discharged on the ground of birth in the United States, because had he set up any other claim, such claim would have been investigated at the port of Richford.

According to the report of the Inspector in charge at Richford, dated November 26, 1909, there is no testimony in Commissioner Johnson's record of the case at the time of the discharge of said respondent, and the Commissioner's records consist simply of

the docket entries, complaint, warrant, etc. [313]

By the telegram of the Inspector in charge at Richford, dated December 19, 1909, in reply to telegram of this office of December 7, 1909, it appears that the transcript of the record presented by this applicant is genuine. Considering the lapse of time since the applicant claims to have been arrested and discharged by Commissioner Johnson, I am reasonably satisfied by his examination that he is the respondent Yee Chung discharged by Commissioner Johnson January 18, 1897.

Although he claims that he distinctly remembers the Commissioner who discharged him, and the description he has given of such commissioner by no means shows him to have been Commissioner Johnson, I think it would be unreasonable to hold the applicant too strictly to this description in view of the twelve years that have elapsed since his alleged discharge.

In view of the foregoing, I recommend landing.

All papers herewith.

Respectfully,

(Signed) CHAS. D. MAYER,

Inspector."

**Memorandum Re Defendant's Exhibit "E"—Letter,
November 26, 1909, Weeks to Commissioner at
San Francisco.**

"The Commissioner at San Francisco:

From the Office of the Chinese Inspector at Rutland,
Vermont, Nov. 26/09.

Your letter states that Commissioner Johnson died in Burlington, Vermont, in November, 1907, and

that the records and dockets are in the custody of the Clerk of the United States Court at Rutland, Vermont. [314]

* * * It is noted that this applicant alleges that he was discharged on December 31st, 1897. During this time and until Jas. M. Martin was appointed United States attorney in 1898, the dockets of Commissioner Johnson only show the dates of the hearings and that the respondent was discharged, there being no transcript of testimony taken at that time, nor record. Simply the docket entries, complaint, warrant, etc. Photograph was not attached to any of the papers at that time, and only in very rare instances was a photograph attached to Commissioner Johnson's docket at later dates.

(Signed) ARTHUR L. WEEKS,
Chinese Inspector in Charge."

**Memorandum Re Defendant's Exhibit "F"—Letter,
August 13, 1914, Williams to Clerk, U. S. District Court, District of Vermont.**

Defendant's Exhibit "F," endorsed "Filed April 2, 1915, Wm. M. Van Dyke, Clerk, by Leslie S. Colyer, Deputy," consists of the following letters:

"August 13, 1914.

"Clerk U. S. District Court,
District of Vermont,
Rutland, Vt.

"Sir: You will please find enclosed herewith what purports to be a certified copy of a record of discharge issued by one Geo. E. Johnson, U. S. Commissioner residing at Burlington, Vermont, in the mat-

ter of a Chinese person named Yee Chung, said discharge being dated Jan. 19, 1898, and the certified copy dated Oct. 31, 1906. [315]

“There is attached to said certified copy an affidavit of Yee Chung, to which is attached a photograph which is a fair likeness of said Yee Chung, who is now under arrest in this district under the name of Yee Chong and the case is pending before me.

“I would thank you to compare the seal and signature of said Geo. E. Johnson, U. S. Commissioner, presented, with that on file in your office, as I understand that Johnson is now dead, and that all of his official records as Commissioner are on file in your office.

“Also ascertain, if possible, under what status said Yee Chung was discharged, whether as merchant, minor son of merchant, or native.

“Also what bond was furnished for appearance of said Yee Chung, and who the sureties were.

“Also what witnesses testified on behalf of said Yee Chung.

“Also, if possible, secure transcript of testimony which was offered in the case before Commissioner Johnson, and forward same to me for court purposes. Said transcript will be returned to you when it has served its purpose.

“Also ascertain the number of copies of the record issued by Commissioner Johnson, and to whom.

“Any other matter which will throw light on this case will be appreciated.

“The Immigration authorities in this city have requested their Boston office to make an investigation

in this case, and it is suggested that you hold the papers transmitted herewith until their office has had an opportunity to examine the papers sent you, after which please return to me with report of your investigations. [316]

“Thanking you in advance, I remain

“Respectfully,

“(Signed) CHAS. N. WILLIAMS,

“U. S. Commissioner, Southern District of California.

**Memorandum Re Defendant's Exhibit “F”—Letter,
8/18/1914, Platt to Williams.**

“OFFICE OF THE CLERK OF THE
DISTRICT COURT OF THE UNITED STATES.
DISTRICT OF VERMONT.

Frederick S. Platt,

Clerk.

Rutland, 8/18/1914.

Chas. N. Williams, Esq.,

U. S. Commissioner,

Los Angeles, Cal.

My dear Sir: I have your letter of Aug. 13th enclosing papers. The copy of record is undoubtedly genuine. The signature and seal attached thereto are the genuine signature and seal of former U. S. Commissioner Geo. E. Johnson, of the District of Vermont.

A photograph of the respondent is not attached either to the record or docket entries of former U. S. Commissioner Johnson. There is nothing in either the record or the docket or upon the papers filed in the case to show the reason of the discharge of the

respondent. There is nothing to show that any bond was furnished for the appearance of the respondent. There is nothing from which I can give names of the witnesses either for the United States or for the respondent.

I do not know of any way to obtain a transcript of the evidence [317] in any case tried by Commissioner Johnson prior to May, 1898.

There is nothing to show how many copies of the record were issued by Commissioner Johnson, nor to whom such copies were issued.

I do not like to keep such papers as you enclosed to me for the reason that they do not belong in this office, but inasmuch as you state that the Immigration officials from Boston are likely to come here and investigate the matter, I will keep them for a reasonable time.

I do not understand how my statements made in this way can be considered by a court, but inasmuch as you have called for them, I am writing this letter.

I trust that I may soon be directed how to dispose of the papers which you have sent me.

Very truly yours,
(Signed) F. S. PLATT."

**Memorandum Re Defendant's Exhibit "F"—Letter,
8/18/1914, Platt to Williams.**

**"OFFICE OF THE CLERK OF THE DISTRICT
COURT OF THE UNITED STATES,
DISTRICT OF VERMONT.**

Frederick S. Platt,
Clerk.

Rutland, 8/18/1914.

Chas. N. Williams, Esq.,
U. S. Commissioner,
Los Angeles, Cal.

My dear Sir: Mr. Sullivan, from the office of the Chinese Inspector at Boston, has been to this office and examined into the Yee Chung case mentioned in your letter to me of August 13th. [318]

I am herewith returning to you the certified copy of the record in the case, with photograph, etc., which were attached, and which were forwarded to me in your letter of Aug. 13th. Will you kindly acknowledge receipt of the same.

Since I wrote you on Aug. 18th, I have made further examination of the copy of the record which you sent me, and of the original record in the case now in this office. Beyond any possible question, the original record is a carbon copy of the papers certified to by Mr. Johnson as a copy of the record. I have learned that when Mr. Johnson made a record it was his custom to make it in duplicate. One of the papers he certified as the record, and the other the copy, and forwarded it to anyone who desired a certified copy of the record.

It is evident, therefore, that the copy of the record which you sent me, and which I am herewith returning, is the one that was made at the same time the original record was made. I am sure of this because each line and page of the enclosed copy of record exactly corresponds with the original record, and where there are any defects in the workmanship the same defects appear both in the original record and the enclosed copy.

If you will look at the second page of the record at the line under the signature of Mr. Johnson, "FOR THE DISTRICT OF VERMONT," and the broken line below, the original record is an exact counterpart of the enclosed.

I am therefore convinced that the enclosed copy of record is genuine, and is the one that was made by former Commissioner Johnson when the original record was made.

Very truly yours,

(Signed) F. S. PLATT,

Clerk." [319]

Memorandum Re U. S. Exhibit No. 1.

United States Exhibit No. 1, endorsed "Filed May 21, 1915, Wm. M. Van Dyke, Clerk, by G. F. Gibbon, Deputy," is a copy of the original certificate dated March 8, 1915, signed by John Zurbrick, Inspector in Charge, U. S. Immigration Service, Vancouver, B. C., together with record of his office in the case of Yee Kim Shing, said copy being duly certified to at Washington, D. C., on the 17th day of March, 1915, by Alfred U. Hampton, Acting Com-

missioner of General Immigration; with a certificate attached of Louis F. Post, Asst. Secretary of Labor, certifying that at the time same was made, the said Alfred U. Hampton was such Acting Commissioner of General Immigration.

Memorandum Re U. S. Exhibit No. 2.

United States Exhibit No. 2, endorsed "Filed April 2, 1915, Wm. M. Van Dyke, Clerk, by Leslie S. Colyer, Deputy," is a certified copy of certain docket entries in the matter entitled, "United States Court, District of Vermont. United States vs. Yee Chung." Said copies were made and certified to by Fred G. Swinnerton on the 20th day of August, A. D. 1908, and the same consists of the original complaint and warrant of arrest in said case, with the officer's return and the filing endorsed thereon, returned into Court by former Commissioner Geo. E. Johnson, at the expiration of his term of office, as same now remains on file in the Clerk's Office, at Rutland, Vermont.

There is also another paper marked United States Exhibit No. 2, which is endorsed "Filed May 21, 1915, Wm. M. Van Dyke, Clerk, by T. F. Green, Deputy," same purporting to be [320] questions propounded by W. A. Brazie, Examining Inspector, at 4:30 P. M. on July 14, 1914, through Chinese Interpreter Chas. Levy, to one Yee Chung under investigation, and said Yee Chung's answers thereto.

[Endorsed]: Original. No. 911. In the United States District Court in and for the Southern District of California, Southern Division. The United States

of America vs. Yee Chung. Praecipe. Service of the within Praecipe is hereby admitted this 23 day of March, 1916. Clyde R. Moody, Asst. U. S. Atty., Attorney for U. S. Isidore B. Dockweiler & John L. McNab, Suite 502 Douglas Bldg. Office Tel., Main 1320 (Sunset), Home 1320, Los Angeles, Cal., Attorneys for Defendant. Removed to 1035 I. N. Van Nuys Bldg. Filed Mar. 23, 1916. Wm. M. Van Dyke, Clerk. By Chas. N. Williams, Deputy Clerk. [321]

*In the District Court of the United States, in and for
the Southern District of California, Southern
Division.*

No. 911—CRIM.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

YEE CHUNG,

Defendant.

**Certificate of Clerk U. S. District Court to
Transcript of Record.**

I, Wm. M. Van Dyke, Clerk of the District Court of the United States of America, in and for the Southern District of California, do hereby certify the foregoing three hundred and twenty-one (321) typewritten pages, numbered from 1 to 321, inclusive, to be a full, true and correct copy of the Warrant of Arrest Issued by U. S. Commissioner, Notice of Appeal from U. S. Commissioner's Order of Deportation, Order Affirming U. S. Commissioner's

Order of Deportation, Memorandum Opinion of Court Affirming Commissioner's Order of Deportation, Transcript of Testimony, Exhibits filed on behalf of U. S., Exhibits filed on behalf of Defendant, Notice of Appeal to U. S. Circuit Court of Appeals, Petition for Appeal, Assignment of Errors, Order Allowing Appeal, Appearance Bond on Appeal, Bond on Appeal, and Praecipe for Transcript on Appeal, in the above and therein entitled cause, and that the same together constitute the Transcript on Appeal of Yee Chung herein, in accordance with the Praecipe for Preparation of Transcript filed in my office on behalf of the appellant by his attorneys of record. [322]

I do further certify that the cost of the foregoing Transcript on Appeal is \$163.30, the amount whereof has been paid me by Yee Chung, the appellant.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said District Court of the United States of America, in and for the Southern District of California, Southern Division, this 24th day of May, in the year of our Lord, one thousand nine hundred and sixteen and of our Independence, the one hundred and fortieth.

[Seal]

WM. M. VAN DYKE,

Clerk of the District Court of the United States of America, in and for the Southern District of California.

By Leslie S. Colyer,

Deputy Clerk.

[Ten Cent Internal Revenue Stamp Canceled.

5/24/16. L. S. C.] [323]

[Endorsed]: No. 2799. United States Circuit Court of Appeals for the Ninth Circuit. Yee Chung, Appellant, vs. The United States of America, Appellees. Transcript of Record. Upon Appeal from the United States District Court for the Southern District of California, Southern Division.

Filed June 1, 1916.

F. D. MONCKTON,
Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

By Paul P. O'Brien,
Deputy Clerk.

*United States Circuit Court of Appeals for the Ninth
Circuit.*

(No. 911—CRIM. S. D.)

YEE CHUNG,

Appellant,

vs.

THE UNITED STATES OF AMERICA,
Appellee.

**Order Extending Time to July 1, 1916, to Docket
Cause and File Record.**

Good cause appearing therefor, it is hereby ordered that the time within which appellant in the above-entitled action may file record and docket cause in the United States Circuit Court of Appeals for the Ninth Circuit be, and the same hereby is extended to and including the 1st day of July, 1916.

Los Angeles, March 27th, 1916.

BLED SOE,
District Judge.

[Endorsed]: No. 2799. United States Circuit Court of Appeals for the Ninth Circuit. Yee Chung, Appellant, vs. The United States of America, Appellees. Order Extending Time to Docket Cause and File Record. Filed Apr. 3, 1916. F. D. Monckton, Clerk. Refiled Jun. 1, 1916. F. D. Monckton, Clerk.

At a stated term, to wit, the October term, A. D. 1915, of the United States Circuit Court of Appeals for the Ninth Circuit, held in the courtroom thereof, in the City and County of San Francisco, in the State of California, on Thursday, the first day of June, in the year of our Lord one thousand nine hundred and sixteen. Present: The Honorable WILLIAM B. GILBERT, Senior Circuit Judge, Presiding; Honorable ERSKINE M. ROSS, Circuit Judge; Honorable WILLIAM H. HUNT, Circuit Judge.

No. 2799.

YEE CHUNG,

Appellant,

vs.

THE UNITED STATES OF AMERICA,

Appellee.

Order Directing the Giving of Bond for Appearance of Appellant in the United States Court of China.

On motion of Mr. John L. McNab, counsel for the appellant, IT IS HEREBY ORDERED:

That the appellant, Yee Chung, be and he is hereby permitted to depart from the United States and go to China upon his giving and executing a bond in the

penal sum of Twenty-five Hundred (\$2500.00) Dollars, to be approved by Francis Krull, United States Commissioner for the Northern District of California, guaranteeing that in case the judgment of the District Court of the Southern District of California, Southern Division thereof, rendered herein, be affirmed by this Court the appellant will, immediately upon the judgment of this Court becoming final, surrender and present himself to the United States Court for China, at Shanghai, China, in satisfaction of the judgment of this Court and of the order of deportation made against the appellant.

IT IS FURTHER ORDERED, that the bond hereby directed to be given shall be in lieu of the bond already given by the appellant, to appear herein, and instead thereof; and

IT IS FURTHER ORDERED, that upon the said Yee Chung presenting and surrendering himself to the United States Court of China, pursuant to the terms of this order, in case of the affirmance of said judgment by this Court, such surrender to said United States Court for China shall be a satisfaction of the judgment of this Court and of the order of deportation, without the necessity of the said Yee Chung returning to the United States for the purpose of being formally deported and that upon such surrender, certified to this Court by the Clerk of the United States Court for China, the surety on the bond of the appellant to appear be discharged from further liability.

Recognizance for Bail.



KNOW ALL MEN BY THESE PRESENTS:
That we, Yee Chung, as principal, and the National Surety Company, a New York corporation, having its principal place of business at New York, New York, authorized under the provisions of Act of Congress approved August 13, 1894, as amended by the Act of Congress, approved March 23, 1910, to become sole surety upon recognizances, stipulations, bonds or undertakings, and licensed by the State of California, as sole surety, are held and firmly bound unto the United States of America in the full and just sum of TWO THOUSAND FIVE HUNDRED and 00/100 (\$2500.00) DOLLARS, to be paid to the

United States of America, to which payment well and truly to be made we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

Sealed with our seals and dated this 1st day of June, in the year of our Lord one Thousand Nine Hundred and Sixteen.

WHEREAS, lately at a District Court of the United States for the Southern District of California, Southern Division, in a matter depending in said Court, between the United States of America and Yee Chung, a judgment was rendered against the said Yee Chung ordering him deported from the United States to China, the country from whence he came, and the said Yee Chung having obtained from said Court an order allowing an appeal to reverse the judgment in the aforesaid matter and a citation directed to the United States Attorney for the Southern District of California, citing and admonishing him to be and appear at a United States Circuit Court of Appeals for the Ninth Circuit to be holden at San Francisco, in the State of California; and

WHEREAS, on the 21st day of March A. D. 1916, the said Yee Chung did pursuant to an order of said District Court fixing his bail pending the determination of said appeal in the sum Two Thousand Five Hundred Dollars file his undertaking for bail in the sum Two Thousand Five Hundred Dollars with the Illinois Surety Company, as sole surety thereon, and subsequently to wit, on the 19th day of April, A. D. 1916, the said Illinois Surety Company was pursuant to an order of the Superior

Court of the County of Cook, State of Illinois, at Chicago, declared insolvent and a Receiver appointed to take charge of the assets thereof, and the said Yee Chung, as principal, at this time desires to substitute, in lieu of the undertaking for bail heretofore filed in said proceeding, this bond executed by himself, as principal, and the National Surety Company, as sole surety; and

WHEREAS, lately at a United States Circuit Court of Appeals for the Ninth Circuit an order was made permitting the said Yee Chung to depart the limits of the United States of America and to journey to the Republic of China in the pursuance of the conduct of his business and to surrender himself in execution of the judgment appealed from to the United States Court for China at Shanghai, Republic of China, if the judgment order shall be affirmed or said appeal be dismissed.

NOW, THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, that if the said Yee Chung shall appear, either in person or by attorney, in the said United States Circuit Court of Appeals for the Ninth Circuit on such day or days as may be appointed for the hearing of said cause in said Court and prosecute his said appeal and shall abide by and obey all orders made by the United States Circuit Court of Appeals for the Ninth Circuit in said cause, and shall surrender himself in execution of the judgment appealed from as said Court may direct, if the judgment ordering him deported shall be affirmed; or the said appeal be dismissed; or shall surrender himself in execution of the judg-

ment appealed from to the United States Court for China at Shanghai, Republic of China, if the judgment ordering him deported shall be affirmed or the said appeal be dismissed, during the pendency of his present business trip to the Republic of China and before the departure of Yee Chung with intent to return to the United States from any port of the Republic of China; and if he shall appear for trial in the said District Court of the United States for the Southern District of California, Southern Division, on such day or days as may be appointed for the retrial by said District Court, and abide by and obey all orders made by said Court, provided the judgment and sentence against him shall be reversed by the United States Circuit Court of Appeals for the Ninth Circuit, then the above obligation to be void; otherwise, to remain in full force, virtue and effect.

YEE CHUNG,
Principal.

NATIONAL SURETY COMPANY.

[Seal]

By C. T. HUGHES,
Its Attorney in Fact.

Taken and acknowledged before me the day and year first above written.

[Seal]

FRANCIS KRULL,
United States Commissioner North'n Dist. of California.

The foregoing bond is hereby approved.

[Seal]

FRANCIS KRULL,
United States Commissioner, North'n Dist. of California.

[Endorsed]: No. 2799. In the Circuit Court of Appeals of the United States, Ninth Circuit. United States of America, Appellee, vs. Yee Chung, Appellant. Recognizance for Bail. Filed Jun. 1, 1916. F. D. Monckton, Clerk.

Stipulation for Costs on Appeal.

KNOW ALL MEN BY THESE PRESENTS, That we, Yee Chung, as principal, and National Surety Company a New York corporation having its principal place of business at New York, New York, authorized under the provisions of Act of Congress approved August 13, 1894, as amended by the Act of Congress, approved March 23, 1910, to become sole surety upon recognizances, stipulations, bonds or undertakings, and licensed by the State of California, as sole surety, are held and firmly bound unto the United States of America in the full and just sum of TWO HUNDRED AND FIFTY (\$250.00) DOLLARS, to be paid to the said United States of America, its certain attorneys, executors, administrators or assigns; to which payment, well and truly to be made, we bind ourselves, our heirs, executors and administrators, jointly and severally by these presents.

Sealed with our seals and dated this 1st day of June in the year of our Lord One Thousand Nine Hundred and Sixteen.

WHEREAS, lately at a District Court of the United States for the Southern District of California, Southern Division, in a matter depending in said Court, between United States of America and Yee Chung, a judgment was rendered against the said Yee Chung ordering him deported from the

United States of America to China, the country from whence he came, and the said Yee Chung having obtained from said Court an order allowing an appeal to reverse the judgment in the aforesaid matter and a citation directed to the United States Attorney citing and admonishing him to be and appear at a United States Circuit Court of Appeals for the Ninth Circuit to be holden at San Francisco, in the State of California; and

WHEREAS, on the 21st day of March A. D. 1916, the principal herein made, executed and filed in the office of the Clerk of the District Court of the United States for the Southern District of California, Southern Division, his bond or undertaking for costs on appeal, with the Illinois Surety Company as surety thereon and, subsequently, to wit, on the 19th day of April, A. D. 1916, upon petition of its creditors an order was made in the Superior Court of the County of Cook, State of Illinois, wherein and whereby it was adjudged that the Illinois Surety Company was and is insolvent and a Receiver was appointed to take charge of the property and effects of the Illinois Surety Company and, at this time, the said principal herein, Yee Chung, makes and files this, as his bond or undertaking for costs, with the National Surety Company, the surety herein, in lieu and place of the bond wherein the Illinois Surety Company is surety, effective as of the date of the execution of the bond wherein the Illinois Surety Company is surety, namely, effective as of March 21st, 1916.

NOW, THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, that if the said Yee Chung shall prosecute his appeal to effect, and answer all damages and costs if he fail to make good his plea, then the above obligation to be void; else to remain in full force and virtue.

YEE CHUNG.

NATIONAL SURETY COMPANY,

[Seal]

By FRANK L. GILBERT,

Its Attorney in Fact.

Taken and acknowledged before me the day and year first above written.

[Seal]

FRANCIS KRULL,

United States Commissioner, North'n Dist. of California.

[Endorsed]: No. 2799. In the Circuit Court of Appeals of the United States, Ninth Circuit. United States of America, Appellee, vs. Yee Chung, Appellant. Stipulation for Costs on Appeal. Filed June. 1, 1916. F. D. Monckton, Clerk.

